

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1011 Withdrawn 3-8-84

RULE REVIEW CHECKLIST NEW SUBMISSION 3-14-84

DATE RULE RECEIVED 2-23-84 3-14 Adopted w/a hearing ✓
DATE FOR REVIEW 3-8-84 3-26 Adopted w/o hearing
DATE DUE 3-8-84 4-3 Temporary rule

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved 4/3/84 Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 4/3/84 Revisor approved _____ disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 2.6.84 Date combined w/ FofF
(this date is later than date when PUC voted to adopt the rule)

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking Order for w/o Hearing
10.20.83 date of Hearing — originally scheduled for 9.13.83

✓ Amended Order
✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency
✓ Notice of Intent to Adopt rules w/o Hearing mailed 3.14.83 — more than 7 requests for hearing rec'd

✓ Amended Notice
✓ Affidavit of Mailing Notice or rulemaking
8.2.83 At least 30 days prior to hearing/~~adoption~~
9.7.83

✓ Mailing list Certificate March 14.83
7.5.83 — 9.7.83

✓ Publication in State Register
7.18.83 At least 30/~~20~~ days prior to hearing/~~adoption~~
9.19.83 March 14.83

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
12.16.83 Approving H.E.'s Report
2.14.84 Approving agency action

✓ Agency's Findings of Fact combined with Order Adopting

_____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules 1.31.84

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

_____ Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

? Affidavit of Mailing Notice, March 14.84
_____ Affidavit of Mailing Notice of Submission to Attorney General
mailed seven days before submission to AG

? ✓ Notice of Submission
_____ Notice of Submission to the Attorney General
mistakes date of submission

✓ Letter to Admin Div, Atty. Gen.

* Notation: Roellen Condon, Staff Attorney (MPUC would like all originals returned to her unless documented letters are signed by someone else, she

MINNESOTA PUBLIC UTILITIES COMMISSION

RECEIVED
MAR 28 1984

March 28, 1984

Ms. Martha Casserly
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Ms. Casserly:

The Minnesota Public Utilities Commission (the Commission) is filing this letter in response to Comments of Otter Tail Power Company under cover letter dated March 20, 1984.

The Commission notes that Otter Tail's Comments consist primarily of repetitions of selected arguments (much of it word for word) from Otter Tail's initial comments to your offfice of March 3, 1984. The Commission believes that it has already fully rebutted Otter Tail's arguments through its Response of March 14, 1984. The Commission will limit its response herein to Otter Tail's few attempts to reply to points raised in the Commission's March 14 Response.

Otter Tail makes no new arguments until the fifth paragraph on page 3. In paragraphs five and six of page 3, Otter Tail discusses examples of cost recovery under certain assumptions presented by the Commission on page 5 of its March 14 Response. First, the Commission notes that a medium to large commercial or industrial customer can easily have an average monthly bill considerably in excess of $740, which, if not paid on time, would have a late payment charge assessed against it. Second, what was an average outstanding residential utility bill of $100 in Otter Tail's initial comments has become simply the average outstanding bill in its new Comments. Finally, Otter Tail's criticism in paragraph six of the cost recovery assumptions used by the Commission are unfounded, as the Commission was merely using the same assumptions put forth by Otter Tail in its initial commments.

In the first paragraph of page 5 (and indirectly in the last two paragraphs of page 4), Otter Tail asserts that the rule as adopted somehow converts a utility bill into an open-ended credit account. This is simply untrue. Utility service and procedures are premised on the payment of bills when due. The utilities have a very effective method of ensuring payment--the threat of disconnection. Customers are not permitted by the utility to forgo payment over an extended period of time and still receive service. Minn. Rule PSC 298.A.1. Even the Commission's Cold Weather rule , 4 MCAR 3.0299, does not give complete protection for non-payment and requires that payment arrangements be made.

Otter Tail has not even attempted to answer the majority of the points made by the Commission in its Response of March 14,1984. In that Response, the Commission demonstrated that utilities currently have a wide range of late payment policies and some even have no late payment

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charge at all, that the structure of the late payment charge was an issue from the beginning of the rule-making process, and that the rule as adopted is not substantially different from the rule as proposed.

Otter Tail Power Company is only one out of approximately sixteen regulated gas and electric utilities covered by this rule. The fact that Otter Tail simply does not agree with the way issues were resolved in either the rule as proposed or as adopted should not be allowed to unduly delay the rules implementation in a case where it has been given proper notice and a full opportunity to participate in the discussion leading to the final rule.

The Commission has not previously discussed the requirements of Minn. Stat. §§ 14.11 (1982) or 14.115 (1983 Supp.) because it believes that under the terms of those sections such discussion was unnecessary. As noted by the Hearing Examiner at paragraph 7 of his order, the rules do not impose a late payment charge on any customer and in fact provide a measure of protection to a utility's customers. In such circumstances, the impact of the rules upon the protected groups is either very indirect or even non-existent. Moreover, Minn. Stat. §14.115, subd. 7(c), exempts small utilities as service businesses subject to rate regulation by the state.

Sincerely yours,

Randall D. Young
Executive Secretary

cc: Katherine E. Sasseville, Otter Tail Power Company

Otter Tail
POWER COMPANY

1909-1984
75
YEARS OF SERVICE

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-736-5411

March 20, 1984

Martha Casserly
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Re: Utility Late Charges, Docket E-999-83-99

Dear Ms. Casserly,

Enclosed please find the Comments of Otter Tail Power Company on the Resubmitted Rules in the above-captioned docket. These Comments should moot the issue raised by the Commission of our failure to serve it with copies of our Comments to the Rules as originally submitted. Because we did not receive a copy of the proposed Rules until the day before it was necessary to mail them, and because we had not received a copy of the Examiner's proposal, a state of some confusion had set in, and we overlooked serving the Commission.

A copy of the instant Comments has been served on the Commission.

Sincerely,

Katherine E. Sasseville

Katherine E. Sasseville
Senior Attorney

RECEIVED
MAR 21 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Public Utilities Commission
Governing Utility Delinquency Charges — Docket No. G, E999/R-83-99

COMMENTS

By letter of March 8, 1984 the Commission withdrew its rules in the above-captioned matter and on March 14, 1984 resubmitted said rules to the Office of the Attorney General for review as to form and legality.

OTTER TAIL POWER COMPANY will confine its Comments herein to the matter of 4 MCAR 3.0321, discussed at pp. 13-16 of the Commission's Order and to certain points made in the Commission's letter of March 14, 1984, commenting on Otter Tail Power Company's original Comments.

The Rules as adopted by the Commission represent a substantial change from the proposed rules, a change adverse to the interests of the overwhelming majority of gas and electric rate-payers in the State of Minnesota, and a change contrary to the evidence of record.

The rule as proposed was a two part delinquency charge, with a flat "collection" fee to cover a portion of the Company's actual costs of collection (exclusive of the cost of financing), which the record showed to be $3.70 in the case of Otter Tail. The second part of the charge was a percentage charge to represent the cost of money. The rule as proposed took the same structure as the late payment charge the Commission adopted for Otter Tail Power Company in contested case Docket No. E-017/GR-80-277. The actual late charge approved in that Docket is a $2.00 collection fee, plus 1% per month interest, as the record herein shows. Otter Tail testified that this charge collects only about one half its collection costs.

The Commission's Statement of Need and Reasonableness in the instant Docket was framed in terms of this two-part cost and two-part charge:

"A. Finance Fee. ..."This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of money."

"B. Collection fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of collecting overdue bills. There are costs associated with the preparation and mailing of notices of past-due accounts, as well as other administrative costs of those accounts. It is reasonable to recover those costs, at least in part, from the cutomers who impose them rather than from all ratepayers." (emphasis supplied.)

The adoption by the Commission of this two part structure in contested cases, lends an additional presumption of reasonableness to the proposed rule which is not present in rulemakings on entirely new issues.

Despite the reasonableness of the two part structure as adopted in contested cases and as proposed by the Commission, the Commission inexplicably rejected this cost-based concept and adopted a substantially changed structure as to which the public had no notice at all. The Commission adopted a structure that includes a percentage financing fee only, with a minimum fee, and exclusion of any cost-recovery whatsoever for delinquent accounts under $10.00.

That a finance fee with a minimum is a substantially different concept from a two part fee covering a flat, fixed average cost, or part thereof, plus a finance fee, should be self-evident. There has been extended litigation before the Commission over the form of electric rates on a virtually identical structural issue: whether a minimum use block or a flat, fixed, average "customer" charge should be used to recover the fixed costs of metering, billing, etc. which do not vary with the amount owed for usage. Certainly an issue of structure of cost recovery which has occupied so much attention in contested cases cannot be off-handedly assumed away in a rule-making. Yet, just as the Commission first sought to adopt this rule as non-controversial, so it now seeks to avoid legitimate public debate over a significant issue, by claiming the change in structure is not a substantial change in the rule.

The form of cost recovery, whether fixed or variable based on usage, makes the difference as to which groups of customers are benefitted, or subsidized, and as to whether the cost-causer will be the cost-bearer. This is one of the most important issues in utility rate-making, and the switch from one form to the other in the middle of a rule-making deprives prompt-paying consumers of important opportunities to protect their interests.

The rule as proposed would have apportioned more of the collection costs caused by the delinquent rate-payer to that customer, and less to the prompt paying customers. The rules as adopted remove all accountability or responsibilty from the cost-causer. They convert what was a contract to pay for service when received, on a monthly, current basis, to an indefinite installment plan with a standard finance fee. Because they will be combined with the budget payment plan and cold weather rules, they eliminate entirely the incentive which was built into the rules as proposed, to pay utility bills promptly.

The rules shift the costs imposed by late-paying customers to ratepayers who may well face even more difficulties in paying bills than the delinquent customer. In Otter Tail's rural service areas especially it will be true that the truly poor, the elderly surviving on miniscule pensions and Social Security, will <u>continue</u> to pay their bills on time, including that portion that represents the cost of giving those less conscientious this subsidy. The Commission introduced no evidence whatsoever to show that the class of ratepayers who will be benefitted from this rule, that is, those who do not pay promptly, are poorer, less able to pay, or more deserving, than those who do pay promptly.

No evidence was offered by the Commission to suggest that the costs cited by utilities were not accurate. The record supports the fact that the utility bears both fixed collection costs and percentage financing costs of the deferred or foregone revenues involved in delinquent accounts.

No evidence was offered by the Commission supporting the idea that the overwhelming bulk of these collection costs should be borne by the ratepayers who pay promptly, yet that is the rationale adopted by the Commission.

For a customer who has an outstanding bill of $200.00, the rule as proposed would have allowed Otter Tail to collect $1.00 toward its $3.70 costs, which it testified do not include its cost of money, plus 1.5%, or $3.00, which represents its cost of money. The Examiner and the Commission rationalized their decisions by suggesting that the Company's cost of money is not 18%. But, assuming, arguendo, that the Company's cost of money is 12%, then under the proposed rule, .5% per month, went toward meeting the $3.70 collection costs, so that the Company under the proposed rule recovered its cost of money plus about one half of its collection costs from this cost-causer. Under the rule as adopted the Company will collect its cost of money, and only about one quarter of its collection costs from this customer.

For Otter Tail's average delinquent residential customer, with a delinquent amount of $100.00, the proposed rule would have permitted recovering $1.00, plus the finance fee of $1.50, of which $.50 could arguably be attributed to collection costs rather than the cost of money. Thus, he would have been paying for the cost of money, plus 40% of the collection costs he imposed on the system.

Under the rule as adopted this customer will pay only the finance fee, thus, even assuming arguendo that $.50 is allocable to collection efforts, only 13% of the collection costs he imposes on the system will be paid by the delinquent customer. The Commission, by substantially changing the structure of the rule from its proposed form, has shifted approximately 40% of the costs of collection from late to prompt paying customers. Prompt paying customers will pay 87% of the costs created by delinquent customers.

Customers with outstanding bills lower than $100.00 will pay even less of the costs they create. Customers with delinquent bills under $10.00 will ride entirely free.

The Commission comments that customers with outstanding bills of $740.00 under the adopted rules will pay the full costs of collection. This claim ignores the real world of collection and bad debt problems which utilities must deal with, and for which prompt paying customers must pay. The average outstanding utility bill is $100.00. A delinquent bill in the range of $740.00 is almost certainly one which has been outstanding for many months and which has therefore necessitated many collection efforts. As Otter Tail testified, such collection efforts are far more complicated and costly than a simple initial late payment, and justify late payment charges in the range of $25.00 or more.

The "cost recovery" argument made by the Commission also assumes that Otter Tail is collecting the full 18% maximum finance fee; yet the Commission goes to great pains to show that the utility will be required to prove its costs, and where the Company's cost of money is, for example, 12%, there is no basis to assume that the Commission will allow the utility to charge 18%. Without the full 18% finance fee, the examples cited by the Company would result in even larger shifts of costs to non-cost-causers.

The record shows that Otter Tail's delinquent accounts collection costs amounted to $211,364.02 from August 1982 to August, 1983, and that bad debts charged off have escalated from $29,140.00 before state regulation in 1972, to $144,882.00 in 1982. The Commission does not understand that there is a relationship between escalating delinquent bills, escalating collection costs and escalating "uncollectibles" which are recovered from prompt-paying customers

in rate cases. It does not understand that when ratepayers are provided incentives to "charge" their utility bills rather than to pay them, the inevitable result is that substantial costs will be shifted to those who do pay promptly. The Commission's failure to understand this chain of events may account for its inability to understand that its notice of a proposed rule did not adequately notify prompt-paying customers of the effects of the rule as adopted.

Under the late payment charge which Otter Tail now has in effect, the customer pays 1% per month, which is not in excess of the Company's cost of money, and a $2.00 collection fee, or 54% of the costs he creates. The only justification given by the Commission for elimination of this collection fee was that it would allegedly "be confusing to customers," and "may complicate utility billing procedures." Although such speculative testimony may have been given by someone during the hearing, not one of Otter Tail's 47,000 customers in Minnesota so testified despite years of experience with the charge, and no utility made such a claim, to our knowledge. These "reasons" are not supported by the record taken as a whole, and are instead the unsupported self-serving speculation of those who simply wanted delinquent customers to be entirely subsidized by the prompt-paying customers.

The adoption of such speculation as foundation for a rule, despite solid evidence that some Minnesota utilities are using the two part structure to assign a substantial part of the costs imposed by delinquent rate-payers to those customers, is without merit. If the Commission wishes to shift the bulk of collection costs to prompt paying customers let it say so forthrightly, and justify that policy choice on the record, in public, where utility customers can assert their interest in denying such subsidies.

The Commission asserts that the change it has made is not "substantial" under the law, because alternative versions of the structure were discussed at the rules hearing. The issue is not whether the adopted version, or any other version of the rule was discussed at hearing. The issue is whether affected persons were given notice of their interests prior to the hearing. United Steel Workers of America, Etc. v. Marshall, 647 F. 2d, 1189 (D.C.Cir. 1980) cited by the Commission at p. 3 of its March 14 Comments, makes this point. The Commission cited only federal cases on the legal issue of the meaning of "substantial change." The Minnesota APA is generally regarded as more protective of the rights of participants to due process in rule-makings, as opposed to federal law which has been more solicitous of the convenience of administrative agencies; and federal interpretations of the federal APA are not on point with Minnesota law. See generally, "Administrative Rulemaking in Minnesota," Carl A.Auerbach. 1979, 63 Minn. Law Review 151.

As demonstrated above, the rule as adopted shifts substantial amounts of the costs of late payments from the class of persons who cause those costs to the class of prompt-paying consumers. The rule as proposed did not give adequate notice to prompt-paying customers of the impact of the rule as adopted. Indeed, the record shows that no person other than the utilities appeared to represent the interests of prompt-paying customers. The record shows that the "consumer" groups and state agencies which appeared, did so in the interests and as representatives of late-paying customers, seeking to eliminate penalties and lower charges, actions which cannot conceivably be considered to be in the interest of the prompt-paying customers who will eventually pick up the delinquents' tab.

In its Comments of March 14 the Commission takes umbrage over Otter Tail's assertion that "the rules as adopted remove all accountability or responsibility from the cost-causer." The contention is valid. The Commission confuses the requirement that a person pay interest for the use of another's money, with the requirement that a person should pay a penalty or fine, for converting another's property to one's own use without claim of right. A "cash" customer is different from a "credit" customer. By eliminating any penalty and substituting the standard state credit interest charge, the Commission has converted the utility's cash customers to credit customers. They need no longer pay for service when billed, they have an open-ended charge account. The incentive to pay promptly has been eliminated.

In the case of a customer who doesn't have the cash to pay a utility bill when due, the customer now has a choice: he can choose not to pay the bill, incurring an interest charge and a flat charge or penalty, or he can borrow the money from a lending institution and pay only the interest charge. Under the proposed rule, instead of borrowing the money from a lending institution to promptly pay a bill when due, the customer has been encouraged to think of the utility as a lending institution.

It is self-evident that this shift of customer incentives will have a cash flow impact on the utility, but because the Commission proposeda rule which did not eliminate this incentive, Otter Tail did not research or address this issue on the record. By substantially changing the rule from that proposed the Commission has prevented Otter Tail from doing so.

The Commission should be prevented from making such a substantial change in policy and rule by the device of offering Comment on its proposed rules. The adoption of a rule changed in form and effect from the rule submitted to the public is clearly a violation of M.S.14.05 (2) and of 9 MCAR 2.111. The Attorney General has an obligation under the law to require agencies to hold to that degree of due process which the Minnesota courts, Constitution and legislature have assured its citizens.

Respectfully submitted,
OTTER TAIL POWER COMPANY

By Katherine E. Sasseville

Katherine E. Sasseville
Senior Attorney
215 South Cascade
Fergus Falls, MN 56537
(218) 736-5411

MINNESOTA PUBLIC UTILITIES COMMISSION

March 14, 1984

Ms. Martha Casserly
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Ms. Casserly:

The Minnesota Public Utilities Commission hereby re-submits its Rules Governing Utility Delinquency Charges to the Office of the Attorney General.

Sincerely,

Randall D. Young (DLJ)
Randall D. Young
Executive Secretary

RDY/dc

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MINNESOTA PUBLIC UTILITIES COMMISSION

March 14, 1984

Ms. Martha Casserly
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Ms. Casserly:

This letter is in response to Comments dated March 3, 1984, submitted by Otter Tail Power Company to your office regarding rules governing utility delinquency charges. It should be noted that the Commission was not properly served with these documents as required by 1 MCAR § 1.206.4C. In fact, Otter Tail Power Company has not yet served a copy of its Comments on the Commission.

The major thrust of the Comments is that modifications made to the rules after public hearing represent substantial change from the proposed rules, thereby violating Minn. Stat. § 14.05 Subd. 2 (1982) and 9 MCAR § 2.111. Both the Hearing Examiner in his Report of December 14, 1983 and the Chief Hearing Examiner in his Report of December 16, 1983 and Order of February 14, 1984 found that the changes to the rule made after public hearing were not substantial changes.

9 MCAR § 2.111 lists factors that the Examiner is to consider in determining whether the proposed final rule is substantially different from the proposed rule in the notice of intent to adopt rules. The Examiner is to ". . . consider the degree to which it:

A. Affects classes of persons not represented at the previous hearing; or

B. Goes to a new subject matter of significant substantive effect; or

C. Makes 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; or

D. Results in a rule fundamentally different from that contained in the Notice of Hearing."

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The major issue raised by Otter Tail Power Company's letter is that the elimination of the $1.00 collection fee in the late payment charge is a substantial change from the rule as proposed. The record in this proceeding establishes that this issue was controversial and more than adequately aired. The Minnesota Department of Public Service (DPS) in Public Exhibit Nos. 19 and 21 urged the elimination of this fee. At the rules hearing on October 20, 1983, Barry Payne of the DPS reiterated this position (midway in tape 2), emphasizing that when late payment notices and collections occur within regularly scheduled billing cycles, the incremental cost of dealing with delinquent bills is negligible. In Public Exhibit No. 2, the Minnesota Public Interest Research Group (MPIRG) also urged that the $1.00 collection fee be eliminated. The Residential Utilities Division of the Office of the Attorney General (RUD) found the imposition of the $1.00 collection fee to be confusing and suggested that it be limited to a one time only charge. Otter Tail Power has consistently been opposed to the $1.00 collection fee--urging not that it be eliminated, but that it be increased. (Public Exhibit Nos. 25, 20, 17) At the hearing, Otter Tail Power suggested that the collection fee be no greater than $4.00 (last quarter of tape 3 and tape 4).

The contention that the elimination of this fee constitutes substantial change is meritless. The change in the proposed rule will not affect any class of persons not represented at the hearings. Persons on both sides of this issue gave considerable testimony on it. It was clearly controversial and well argued both orally and in written comments. It is equally specious to argue that this change introduces a new subject matter of significant substantive effect. The rule continues to address the same subject matter, how to calculate a late payment charge. The current rule balances the alternatives of absolutely no collection fee with the imposition of a collection fee not greater than $4.00 which was proposed by Otter Tail Power at the hearing and in Public Exhibit No. 25. (Otter Tail Power Company in Public Exhibit No. 20 proposed a variation on this theme suggesting a $1.00 collection fee for the first attempt, a $5.00 for the second attempt, $10.00 for the third attempt, and a $25.00 fee if termination is necessary.) In the rule as adopted, the late payment charge maximum is 1 1/2 % of any delinquent amount above $10.00 with a minimum $1.00 fee if the finance charge itself does not generate at least that amount. Viewing Otter Tail Power's existing late payment schedule ($2.00 collection fee plus 1% finance charge), it is clear that the collection charge reduction would be an issue from the beginning of this rulemaking procedure.

The existing rule merely resolves the calculation of the late payment charge in a manner somewhat different from that first proposed. It does not result in 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. The Notice of Hearing referred potential participants to the complete text of the rule and advised all interested parties that the proposed rule might be modified as a result of the hearing process.

Finally, it cannot be maintained that the elimination of the collection fee results in a rule fundamentally different from that contained in the Notice of Hearing. It must be remembered that the rule merely establishes guidelines and maximums for the utility's imposition of a late payment charge. The rule does not establish a late payment charge for any utility. The utility still retains the responsibility of establishing that its charge is fair and reasonable within the rule's guidelines.

The establishment of a minimum delinquent amount to which a late payment charge can attach was initially proposed by a utility, Northern States Power Company (Pub. Ex. No. 6). The Commission adopted this suggestion because it will avoid customer misunderstanding and confusion and will also protect a customer with a very small outstanding balance from paying a late charge. The effect of this change in the rule is de minimis. In South Terminal Corp. v. Environmental Protection Agency, 504 F2d 646,659(1st Cir. 1974) the court wrote

> A hearing is intended to educate an agency to approaches different from its own; in shaping the final rule it may and should draw on the comments rendered. The plan seems a logical outgrowth of the hearing and related procedures. Cf. Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470 (2d Cir. 1971). Parties have no right to insist that a rule remain frozen in its vestigal form. See Pacific Coast European Conference v. United States, 350 F.2d 197, 205 (9th Cir. 1965). As the Court of Appeals for the District of Columbia Circuit recently said:
>
> The requirement of submission of a proposed rule for comment does not automatically generate a new opportunity for comment merely because the rule promulgated by the agency differs from the rule it proposed, partly at least in response to submissions.[51]
>
> [51] "A contrary rule would lead to the absurdity that in rule-making under the APA the agency can learn from the comments on its proposals only at the peril of starting a new procedural round of commentary."
>
> International Harvester Co. v. Ruckelshaus, 155 U.S.App.D.C. 411, 478 F.2d 615, 632 n. 51 (1973). See also Owensboro on the Air, Inc. v. United States, 104 U.S.App.D.C. 391, 2 2 F.2d 702, 708 (1958).

It is the Commission's position that the establishment of a minimum delinquent amount does not constitute substantial change because its effect is de minimis, methods of calculating late payment charges were at issue and were evolving during this rulemaking process.

In summary, the primary test of the presence of substantial change is a lack of adequate notice so that a potentially interested party could present his views on the record. United Steel Workers of America, Etc. v. Marshall, 647 F. 2d 1189 (D.C. Dir. 1980); American Iron & Steel Inst. v. Environmental Protection Agency 568 F 2d 284 (3d Cir. 1977). It must be recognized that the changes in the rule are fully supported in the record and are logical outgrowths of the rulemaking proceeding. South Terminal Corp. v. Environmental Protection Agency, 504 F 2d 646 (1st Cir. 1974).

The Commission believes its discussion above clearly refutes Otter Tail Power's contention that the rule as adopted is in violation of Minnesota Statute § 14.05 subd. 2 (1982) or 9 MCAR § 2.111. However, the Commission would also like to respond to some of the specific assertions made by Otter Tail Power in its Comments not addressed above. To the extent possible, these responses will follow the order in which the issues were presented in Otter Tail Power's Comments.

In the second paragraph on page 1 of its Comments, Otter Tail Power discusses the form of its current late payment charge. For some reason, Otter Tail Power feels it important to assert that its two-part late payment fee structure was adopted by the Commission in its 1980 rate case, Docket No. E-017/GR-80-277. This assertion is simply untrue. In fact, the current two-part structure was proposed by the Department of Public Service and approved by the Commission in its Order in Docket No. ER-17-1 issued February 26, 1976, which was the first Otter Tail Power rate case before the Commission. Neither the late payment charge structure nor level has been an issue in any of Otter Tail Power's three subsequent rate cases before the Commission. The only mention of it in the 1980 Order was a reminder to Otter Tail Power of its obligation to disclose the monthly percentage rate of its late payment charge on its bills in accordance with Minnesota Statute § 222.75.

In the fourth paragraph on page 1, Otter Tail Power implies that Commission decisions in contested rate cases have consistently favored two part late payment fee structures. This is not so. Since the 1976 Order for Otter Tail Power, the Commission has considered late payment charges in other utility rate cases. For example, in its Order After Reconsideration of March 17, 1980, in Minnesota Gas Company, Docket No. G-008/GR-77-1237, the Commission specifically allowed Minnegasco to retain its one-part late payment charge structure, which consisted of a finance fee of 5%, but required an increase in the time period for paying the bill before the fee was applied. There, as in the instant rulemaking, the most debated issue was the time allowed before a late payment charge could be applied rather than the structure of the charge.

In the first full paragraph on page 2, Otter Tail Power appears to argue the factors considered in the determination of an appropriate structure of electric rates should be the same as those for determination of an appropriate late payment charge. Such an argument is illogical. While there may be some very limited similarity in the fixed versus variable rate issues, any similarity is far outweighed by the obvious differences in the "product" being priced. Numerous factors such as the cost of alternative fuels, marginal costs, customer load factor, and level of service go into the determination of appropriate gas and electric rate structures, but do not affect late payment charge structures.

The balance of page 2 repeats arguments Otter Tail Power made in opposition to the rule as initially proposed. The Commission would like to respond to Otter Tail Power's outrageous contention in the third paragraph that "[t]he rules as adopted remove all accountability or responsibility from the cost-causer." As more thoroughly discussed in this Response, the change from the rule as proposed to the rule as adopted does not result in a significant shift of responsibility for bearing late payment costs. A maximum finance fee of 18%, even in the absence of a $1.00 collection fee, certainly confronts a late paying customer with accountability and responsibility for his or her actions. Otter Tail is purportedly not asserting its own interest here but rather interests of its customers. The Commission also notes that the Department of Public Service, charged by statute to represent the general body of ratepayers before the Commission, recommended the elimination of the collection fee, as did MPIRG; the RUD, charged by statute to represent residential ratepayers, was also concerned about this fee. Certainly these groups are to be considered as representing the interests of utility ratepayers at least as well as Otter Tail Power.

In the first four paragraphs on page 3, Otter Tail Power gives examples of the effect of the rule as adopted at various levels of delinquency. The conclusions Otter Tail Power derives from its figures are misleading. For argument, the Commission will use Otter Tail Power's assumptions of $3.70 collection costs, a 12% cost of money, and an 18% finance fee. At a $100 delinquent amount, the cost to Otter Tail Power would be $4.70; the rule as adopted would allow collection of $1.50 as a late payment charge, leaving $3.20, or 68% of costs to be recovered by other means (not 87% of cost as Otter Tail Power claims in the third paragrph). At a $200 delinquent amount, the rule as adopted would recover $3.00 as a late payment charge, leaving $2.70, or 47% of costs to be recovered by other means. While the percentage amounts look somewhat high, the dollar amounts involved are not large.

However, at higher levels of delinquency, the situation changes. For example, with a $600 delinquent amount, the rule as adopted would collect $9.00, leaving only $0.70, or 7% of cost, to be recovered by other means. At $740, the rule would collect exactly the $11.10 cost. At all delinquency levels above this, the rule would allow collection of more than cost, under the above assumptions. Under Otter Tail Power's current late payment policy, Otter Tail Power will always under-recover $1.70 at all delinquency levels.

In the fourth paragraph on page 3, Otter Tail Power complains about the alleged "free ride" for customers with delinquencies of less than $10.00. As discussed previously, the effect of establishing a minimum delinquent amount is de minimis. In the absence of this provision, a utility could charge a maximum of 1.5¢ on a $1 delinquency, 7.5¢ on a $5 delinquency, and 13.5¢ on a $9 delinquency. The "loss" of such small amounts will clearly have little effect on a utility. It is also interesting to note that Otter Tail Power itself imposes no late payment charge on outstanding delinquent amounts of less than $5.00. Therefore, the establishment of the minimum delinquent amount in the rule will have even less impact on Otter Tail Power.

In the fifth paragraph on page 3, Otter Tail Power presents figures on bad debt charge-offs and contends that "[t]hese are costs that the Commission's rule attempts to shift from delinquent customers to prompt-paying customers." This statement is patently false. Neither the rule as originally proposed nor as adopted deals with the handling of bad debts. A bad debt is "charged-off" when it is deemed uncollectible; allowances for bad debt expenses are generally factored into the determination of needed revenues in a utility rate case, as a legitimate cost of doing business (subject, of course, to Commission scrutiny as to reasonableness). All ratepayers, unfortunately, end up bearing the burden of bad debts. This is the case now and has been the case in the past; this rule will neither improve nor worsen the situation.

In the first full paragraph on page 4, Otter Tail Power attempts to imply that the two-part late payment fee structure is standard for Minnesota utilities. As can be seen from Agency Exhibit #11, as of December 1981, the late payment policies of gas and electric utilities varied widely. This disparity in practices was one of the reasons for the adoption of a uniform rule by the Commission. Of the 9 electric utilities listed on Agency Exhibit 11, only Otter Tail Power Company had a two-part late payment charge structure with a finance fee and a collection fee. Four electric utilities had no late payment charge at all (including Northern States Power and Minnesota Power and

Light, the two largest electric utilities in the state); one had a collection fee only and the remaining three had a finance fee only. Of the 11 gas utilities, only two had two-part charges, two had no late payment charge, and the remaining seven had finance fees only. This hardly demonstrates a well-established policy on the part of utilities from which the Commission is allegedly departing. Since the time Agency Exhibit 11 was prepared, NSP has implemented a late payment charge and several more utilities have two-part rates. However, Otter Tail Power's attempt to characterize the finance fee with a minimum in the rule as adopted as a substantial change in Commission policy and utility practice is completely unfounded.

In summary, the Comments of Otter Tail Power Company should not be considered by your office because the Comments were never properly served on the Commission. In this Response, the Commission has conclusively shown that its modifications to the rule after public hearing do not consititute substantial change. The Commission has also discredited Otter Tail Power's self-serving and misleading attempts to show otherwise.

This letter is being simultaneously served on Otter Tail Power Company.

Sincerely yours,

Randall D. Young (DLJ)
Randall D. Young
Executive Secretary

RDY/dc

cc: Katherine E. Sasseville
Otter Tail Power Company

MINNESOTA public utilities COMMISSION

RECEIVED
MAR - 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

March 8, 1984

Ms. Martha Casserly
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Ms. Casserly:

The Minnesota Public Utilities Commission hereby withdraws the submission of its Rules Governing Utility Delinquency Charges from the Office of Attorney General for further agency review.

Sincerely,

Randall D. Young
Executive Secretary

RDY/djs

AMERICAN CENTER building • kellogg AND ROBERT STS • SAINT PAUL, MN 55101

Otter Tail
POWER COMPANY

1909-1984
75
YEARS OF SERVICE

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-736-5411

March 3, 1984

Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

In re Order of the Minnesota PUC
Adopting Rules, Docket G,E-999/R-83-99

Enclosed please find the Comments of Otter Tail Power Company on the above-entitled matter. These Comments are confined to one aspect of the adopted Rules, inasmuch as the Commission's Order was not received until February 27, 1984, and the Hearing Examiner's Report was never received. Otter Tail made a specific request at the rules hearing to receive copies of all reports and Orders in this matter upon their issuance.

Sincerely,

Katherine E. Sasseville

Katherine E. Sasseville,
Senior Attorney

RECEIVED
MAR 6 - 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Public Utilities Commission
Governing Utility Delinquency Charges

Docket No. G, E999/R-83-99

COMMENTS

OTTER TAIL POWER COMPANY will confine its Comments herein to the matter of 4 MCAR 3.0321, discussed at pp. 13-16 of the Commission's Order. The Rules as adopted by the Commission represent a substantial change from the proposed rules, a change adverse to the interests of the overwhelming majority of gas and electric rate-payers in the State of Minnesota, and a change contrary to the evidence of record.

The rule as proposed was a two part delinquency charge, with a flat "collection" fee to cover a portion of the Company's actual costs of collection (exclusive of the cost of financing), which the record showed to be $3.70 in the case of Otter Tail. The second part of the charge was a percentage charge to represent the cost of money. The rule as proposed took the same structure as the late payment charge the Commission adopted for Otter Tail Power Company in contested case Docket No. E-017/GR-80-277. The actual late charge approved in that Docket is a $2.00 collection fee, plus 1% per month interest, as the record herein shows. Otter Tail testified that this charge collects only about one half its collection costs.

The Commission's Statement of Need and Reasonableness in the instant Docket was framed in terms of this two-part cost and two-part charge:

> "A. Finance Fee. ..."This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of money."
> "B. Collection fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of collecting overdue bills. There are costs associated with the preparation and mailing of notices of past-due accounts, as well as other administrative costs of those accounts. It is reasonable to recover those costs, at least in part, from the cutomers who impose them rather than from all ratepayers." (emphasis supplied.)

The adoption by the Commission of this two part structure in contested cases, lends an additional presumption of reasonableness to the proposed rule which is not present in rulemakings on entirely new issues.

Despite the reasonableness of the two part structure as adopted in contested cases and as proposed by the Commission, the Commission inexplicably rejected this cost-based concept and adopted a substantially changed structure as to which the public had no notice at all. The Commission adopted a structure that includes a percentage financing fee

only, with a minimum fee, and exclusion of any cost-recovery whatsoever for delinquent accounts under $10.00.

That a finance fee with a minimum is a substantially different concept from a two part fee covering a flat, fixed average cost, or part thereof, plus a finance fee, should be self-evident. There has been extended litigation before the Commission over the form of electric rates on a virtually identical structural issue: whether a minimum use block or a flat, fixed, average "customer" charge should be used to recover the fixed costs of metering, billing, etc. which do not vary with the amount owed for usage. Certainly an issue of structure of cost recovery which has occupied so much attention in contested cases cannot be off-handedly assumed away in a rule-making. Yet, just as the Commission first sought to adopt this rule as non-controversial, so it now seeks to avoid legitimate public debate over a significant issue, by claiming the change in structure is not a substantial change in the rule.

The form of cost recovery, whether fixed or variable based on usage, makes the difference as to which groups of customers are benefitted, or subsidized, and as to whether the cost-causer will be the cost-bearer. This is one of the most important issues in utility rate-making, and the switch from one form to the other in the middle of a rule-making deprives prompt-paying consumers of important opportunities to protect their interests.

The rule as proposed would have apportioned more of the collection costs caused by the delinquent rate-payer to that customer, and less to the prompt paying customers. The rules as adopted remove all accountability or responsibilty from the cost-causer. They convert what was a contract to pay for service when received, on a monthly, current basis, to an indefinite installment plan with a standard finance fee. Because they will be combined with the budget payment plan and cold weather rules, they eliminate entirely the incentive which was built into the rules as proposed, to pay utility bills promptly.

The rules shift the costs imposed by late-paying customers to ratepayers who may well face even more difficulties in paying bills than the delinquent customer. In Otter Tail's rural service areas especially it will be true that the truly poor, the elderly surviving on miniscule pensions and Social Security, will continue to pay their bills on time, including that portion that represents the cost of giving those less conscientious this subsidy. The Commission introduced no evidence whatsoever to show that the class of ratepayers who will be benefitted from this rule, that is, those who do not pay promptly, are poorer, less able to pay, or more deserving, than those who do pay promptly.

No evidence was offered by the Commission to suggest that the costs cited by utilities were not accurate. The record supports the fact that the utility bears both fixed collection costs and percentage financing costs of the deferred or foregone revenues involved in delinquent accounts.

No evidence was offered by the Commission supporting the idea that the overwhelming bulk of these collection costs should be borne by the

ratepayers who pay promptly, yet that is the rationale adopted by the Commission.

For a customer who has an outstanding bill of $200.00, the rule as proposed would have allowed Otter Tail to collect $1.00 toward its $3.70 costs, which it testified do not include its cost of money, plus 1.5%, or $3.00, which represents its cost of money. The Examiner and the Commission rationalized their decisions by suggesting that the Company's cost of money is not 18%. But, assuming, arguendo, that the Company's cost of money is 12%, then under the proposed rule, .5% per month, went toward meeting the $3.70 collection costs, so that the Company under the proposed rule recovered its cost of money plus about one half of its collection costs from this cost-causer. Under the rule as adopted the Company will collect its cost of money, and only about one quarter of its collection costs from this customer.

For Otter Tail's average delinquent residential customer, with a delinquent amount of $100.00, the proposed rule would have permitted recovering $1.00, plus the finance fee of $1.50, of which $.50 could arguably be attributed to collection costs rather than the cost of money. Thus, he would have been paying for the cost of money, plus 40% of the collection costs he imposed on the system.

Under the rule as adopted this customer will pay only the finance fee, thus, even assuming arguendo that $.50 is allocable to collection efforts, only 13% of the collection costs he imposes on the system will be paid by the delinquent customer. The Commission, by substantially changing the structure of the rule from its proposed form, has shifted approximately 40% of the costs of collection from late to prompt paying customers. Prompt paying customers will pay 87% of the costs created by delinquent customers.

Customers with outstanding bills lower than $100.00 will pay even less of the costs they create. Customers with delinquent bills under $10.00 will ride entirely free.

The record shows that Otter Tail's delinquent accounts collection costs amounted to $211,364.02 from August 1982 to August, 1983, and that bad debts charged off have escalated from $29,140.00 before state regulation in 1972, to $144,882.00 in 1982. These are costs that the Commission's rule attempts to shift from delinquent customers to prompt-paying customers. Should the Commission not be asked to justify this policy with reasons better than possible "customer confusion?"

Under the late payment charge which Otter Tail now has in effect, the customer pays 1% per month, which is not in excess of the Company's cost of money, and a $2.00 collection fee, or 54% of the costs he creates. The only justification given by the Commission for elimination of this collection fee was that it would allegedly "be confusing to customers," and "may complicate utility billing procedures." Although such speculative testimony may have been given by someone during the hearing, not one of Otter Tail's 47,000 customers in Minnesota so testified despite years of experience with the charge, and no utility made such a claim, to our knowledge. These "reasons" are not supported by the record taken as a whole, and are instead

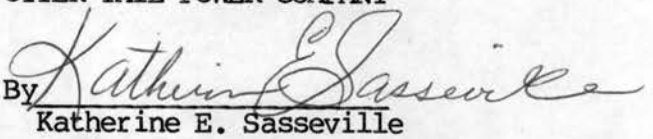
the unsupported self-serving speculation of those who simply wanted delinquent customers to be entirely subsidized by the prompt-paying customers.

The adoption of such speculation as foundation for a rule, despite solid evidence that Minnesota utilities are using the two part structure to assign a substantial part of the costs imposed by delinquent rate-payers to those customers, is without merit. If the Commission wishes to shift the bulk of collection costs to prompt paying customers let it say so forthrightly, and justify that policy choice on the record, in public, where utility customers can assert their interest in denying such subsidies.

The Commission should be prevented from making such a substantial change in policy and rule by the device of offering Comment on its proposed rules. The adoption of a rule changed in form and effect from the rule submitted to the public is clearly a violation of M.S.14.05 (2) and of 9 MCAR 2.111. The Attorney General has an obligation under the law to require agencies to hold to that degree of due process which the Minnesota courts, Constitution and legislature have assured its citizens.

Respectfully submitted,

OTTER TAIL POWER COMPANY

By 

Katherine E. Sasseville
Senior Attorney

215 South Cascade
Fergus Falls, MN 56537
(218) 736-5411

OTTER TAIL POWER COMPANY BILLING CALENDAR

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
24	M.R. 25	M.R. P.D. 26	M.R. L.P.C. 27	28	29	30
31	1	P. 2	M. 3	4	5	6
7	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	M.R. 24	M.R. P.D. 25	M.R. L.P.C. 26	27	28
29	30	1	P. 2	M. 3	4	5
6	7	8	9	10	11	12

M.R. = Meter Reading
P.D. = Payment Due
L.P.C. = Late-Payment Charge
P. = Processing
M. = Mailing

MINNESOTA public utilities COMMISSION

February 23, 1984

Mr. H. H. Humphrey, III
Attorney General
102 Capitol Building
Aurora Avenue
St. Paul, Minnesota 55155

RE: MPUC Docket No. G,E-999/R-83-99

Dear Mr. Humphrey:

Enclosed for your review under M.S. § 14.16 and 14.17 are the Minnesota Public Utilities Commission's adopted rules on utility delinquency charges.

The materials required by 1 MCAR § 1.202 are included.

Please feel free to call me with any questions.

Sincerely,

Rosellen Condon

Rosellen Condon
Legal Research Analyst

RC/djs
Enclosure

AMERICAN CENTER building • kellogg AND ROBERT STS • SAINT PAUL, MN 55101

Otter Tail
POWER COMPANY

1909-1984
75
YEARS OF SERVICE

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-736-5411

February 23, 1984

RECEIVED
FEB 23 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Office of the Attorney General
G-25 State Administration Bldg
50 Sherburne Avenue
St. Paul, Minn. 55155

Re: PUC DOCKET NO. E-999/R-83-99

To the Attorney Assigned to this Matter:

On February 20 Otter Tail Power Company received notice that the above-captioned rules had been submitted to your office on February 16, 1984, and that your office would would allow at least ten calendar days prior to approval.

We have not seen the rules as promulgated, and therefore will not be able to comment within ten days. I tried to reach the Commission to order a copy of the rules as soon as I received notice, but they were closed on the 20th. I called the Attorney General's number listed in the letter of notification, but it is not a number in service. (296-7030) I thought the number might be a typographical error and tried to contact Karl Sonneman at 296-6030, but have been unable to reach him.

I will be out of town from Feb. 24 to March 2. I would ask that your office accept comments on the rules as promulgated at least through March 15. I would also ask that in the future copies of the rules be automatically sent to utilities and other organizations which make an appearance and testify at rules hearings. (Certainly a bill can be sent with the document if cost is the factor causing the delay.) To fail to do so, when approval of the rules is possible before affected parties have seen them would appear to be contrary to the Commission's and the MNAPA's policy of extending liberal notice and opportunity for input to persons affected by a state action.

Cordially yours,

Katherine E. Sasseville

cc. Randy Young
Leo Adams

MINNESOTA public UTILITIES COMMISSION

November 9, 1983

Mr. Bruce Campbell, Hearing Examiner
Office of Administrative Hearings
4th Floor Summit Bank Building
310 South 4th Avenue
Minneapolis, Minnesota 55415

RE: Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

Dear Mr. Campbell:

The Minnesota Public Utilities Commission, pursuant to M.S. § 14.15, subd. 1 (1983), finds that it chooses not to adopt the amendments to the proposed rules governing utility delinquency charges submitted by Otter Tail Power Company in comments dated November 3, 1983 or the amendments proposed by Minnesota Power in comments dated November 4, 1983.

Sincerely,

Randall D. Young
Executive Secretary

RDY:RC:djs

AMERICAN CENTER building • kellogg and robert sts • saint paul, mn 55101

Otter Tail
POWER COMPANY

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-736-5411

November 3, 1983

RECEIVED
NOV 7 1983
ADMINISTRATIVE
HEARINGS

Mr. Bruce Campbell
Hearing Examiner
Office of Administrative Hearings
400 Summit Bank Building
310 4th Avenue South
St. Paul, MN 55415

Dear Mr. Campbell:

Re: COMMENTS OF OTTER TAIL POWER COMPANY
DOCKET NO. G, E999/R-83-99

Enclosed as a late-filed comment in the above-entitled docket, please find the comments of Otter Tail Power Company.

Sincerely,

Katherine E. Sasseville

Katherine E. Sasseville
Senior Attorney
dm

Enclosure

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Cynthia A. Kitlinski	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Public Utilities Commission
Governing Utility Delinquency Charges — Docket No. G, E999/R-83-99

COMMENTS OF OTTER TAIL POWER COMPANY

The Minnesota Public Utilities Commission (Commission) has held a rule-making hearing in the above-referenced Docket regarding Utility Delinquency Charges. The purpose of this proceeding is to determine the need for and the reasonableness of the rules proposed therein, as well as allowing the Commission the opportunity to obtain additional public input on the form and content of the proposed rules. Otter Tail appeared at the hearing and submitted comments. These Supplementary Comments are intended to clarify points made at the hearing and respond to issues raised there.

There is no question that a utility incurs additional expenses which result from delinquent bills. The utility must recover the additional expense from customers in some manner. A late-payment charge is the most equitable means of recovering that part of the cost of providing service to these customers. A late-payment charge should be designed so that customers who pay their bills on time are not being penalized by the customers who choose not to pay on time. The central issue to be decided in evaluating the reasonableness of the proposed rules is whether they accomplish these objectives.

I. 4 MCAR S 3.0317 Definitions

Proposed Rule 4 MCAR S 3.0317 B. defines "delinquent account" as the "lesser of the outstanding account balance or the scheduled monthly payment." OTP would propose that the delinquent account be defined as the scheduled monthly payment, including arrears, reduced by any outstanding credit balance on the account. Otter Tail Power currently has an Even Monthly Payment (EMP) Plan and does reduce the account balance by any EMP credit balance. OTP proposes that the delinquent account balance include any arrears.

If a customer is on our EMP Plan or has established a scheduled payment amount, this essentially represents a contractual amount to be paid. This is an amount to be paid on a regular basis as agreed upon by the customer and OTP. Under the terms of the plan, OTP is then entitled to

collect this contractual payment on a timely basis or, in the absence of timely payment, assess a late-payment charge.

II. 4 MCAR S 3.0319 Determination of Delinquency

A. Residential Customer

The proposed rule indicates that any residential customer who paid their bill by the next billing date would not pay any late-payment charges. Payments made just before Otter Tail's present billing date, which is the processing date for the new bill, would not be recorded on that bill, and late-payment charges would be added. This would result in confusion for both the Company and the customer. To alleviate the potential for this result, Otter Tail Power Company would propose that the late-payment charge be assessed no later than 22 days after the current mailing. Generally, the meters are read 22 days after the current monthly billing. This would enable a Service Representative to collect for the past month's billing at the same time the next month's meter reading is being obtained.

OTP's proposal would enable the Company to coordinate current billing procedures with collection efforts to make the most efficient and effective use of time and resources.

OTP is opposed to the proposed method of determining when a customer's bill is delinquent because there are operating characteristics and customer characteristics which differ between utilities which serve within the State of Minnesota.

III. 4 MCAR S 3.0320 Requirements for Imposing Late-Payment Charge

OTP is opposed to the proposed method of determining when a customer's bill is delinquent because there are operating characteristics and customer characteristics which differ between utilities which serve the State of Minnesota.

The time for payment presently allowed by some utilities and the amount of the late-payment charge currently used by utilities in the state vary.

Changes in the due date or amount of the charge will affect a utility's revenue requirements. The consideration of this aspect would be best handled through the utility's next general rate case.

If the Commission should order us to make changes before the next rate case, costly modifications must be made to our billing system to accommodate any changes ordered by the Commission in this Docket. For example, we cannot assess a late-payment charge on "the lesser of the

outstanding account balance or the scheduled monthly payment" under the present logic within the computer system.

If the Commission ordered us to print the customer's previous penalty charge on his current bill stub, time and effort would have to be spent to expand the bill record to make room for this additional information.

IV. 4 MCAR Amount of Late-Payment Charge

OTP's current late-payment charge was adopted by the Commission in Docket No. E-017/GR-80-277. The charge is $2.00 plus 1% per month on the outstanding billing, minus any credits. As was noted at the hearing, this is less than the full cost. However, under the present system Otter Tail, and each other utility, has the ability to initiate a tariff change to reflect rising costs. The Commission also has that ability. The Companies and the Commission also have the ability to initiate changes in the design of the tariff, to reflect, for example, the fact that costs rise with subsequent collection efforts for a given account. The present system affords the utilities, the Commission, and rate-payers the advantage of diversity. The Commission has the ability to evaluate different approaches and make changes on the basis of methods that have been proven to be desirable. Adoption of the proposed rules would eliminate that virtue of diversity.

Otter Tail has experienced collection expenses far in excess of the proposed collection fee of $1.00. Based upon the calendar year 1982 and the 12 months ending July 1983, OTP's average collection expenses were $3.70 per delinquent account as shown in the following calculations:

Collection Expenses (11/1/82 - 12/31/82)	$209,118.37
Number of Delinquent Accounts (MN)	56,547
Average Expense per Account	$3.70
Collection Expenses (8/1/82 - 7/31/83)	$211,364.02
Number of Delinquent Accounts (MN)	57,070
Average Expense per Account	$3.70

The total expenses reflected herein include only the amounts which are charged by our Division Offices to the collection efforts pertaining to delinquent accounts. It does not include the costs incurred by our Treasury Department, Legal Department, or outside collectors in the collection of delinquent accounts. These costs do not include the cost of capital.

Therefore, if a uniform rule is adopted, despite the evidence against the need for uniformity, OTP would propose the following change replace the proposed rule:

B. Collection fee. The utility may impose a collection fee no greater than $4 plus 1 1/2% of the unpaid balance (as indicated in paragraph A of the proposed Commission Rule).

The amount of net bad debts charged off during the past years has increased drastically as reflected in the following table:

COMPARISON OF NET BAD DEBTS CHARGED OFF

	Amount	% Increase from 1972
1972	$ 29,140	
1977	64,488	121.3%
1982	144,882	397.2%

In summary, it is important that late-payment charges provide an incentive to the customer to make prompt payment of utility bills, and that prompt ratepayers not be required to subsidize delinquent customers. Otter Tail Power would encourage the Commission to carefully consider all aspects of the delinquency charges before making rules which would apply to all utilities in the same manner. It must be recognized that all utilities have neither the same operating characteristics nor customer characteristics.

Attached to these Comments is a calendar showing the interrelationship of the various dates in the Otter Tail billing cycle.

Respectfully Submitted,

OTTER TAIL POWER COMPANY

By: Katherine E. Sasseville

Katherine E. Sasseville
Senior Attorney
215 South Cascade Street
Fergus Falls, MN 56537

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO RANDALL D. YOUNG
Executive Secretary
Attn: KARL W. SONNEMAN
Special Assistant/Attorney General

DATE: April 3, 1984

FROM MARTHA J. CASSERLY MJC
Special Assistant/Attorney General

PHONE: 296-4692

SUBJECT In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC:sa

AG copy.

Minnesota Public Utilities Commission

Adopted Rules Governing Utility Delinquency Charges

Rules as Adopted

4 MCAR S 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR SS 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent ~~account~~ amount. "Delinquent ~~account~~ amount" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a ~~utility's~~ budget billing plan or a payment schedule ~~under 4 MCAR S 3.0299 G.~~, "delinquent ~~account~~ amount" means the lesser of the outstanding account balance or the outstanding scheduled ~~monthly payment~~ payments.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent ~~account~~ amount.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02, as modified by Minnesota Statutes, sections 216B.025 and 216B.026.

E. Residential customer. "Residential customer" means a customer of a utility whose principal use of gas or electricity is for household purposes such as lighting, cooking, water heating, and space heating in space occupied as living quarters. Utility service is normally supplied through a single meter to a single family dwelling unit, but apartments or other subdivided dwelling units may be classified as residential even though several individual units take service through the same meter.

4 MCAR S 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge

which results from delinquent payment.

4 MCAR S 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's ~~utility~~ bill payment is not ~~paid~~ received by the utility by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility. The utility may print a due date on the bill which is not more than five days before the next scheduled billing date.

B. Nonresidential customer. If a nonresidential customer's utility bill is not ~~paid~~ received by the utility within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

4 MCAR S 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge. The filing must include substantiating documents and exhibits supporting the finance fee and grace periods proposed.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly and the annual percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

D. Implementation. Within 90 days of the effective date of this rule, the utility shall comply with the tariff, bill content, and uniformity requirements of A.-C.

4 MCAR S 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must ~~consist of the following two components~~ be calculated as follows:

A. Minimum delinquent amount. The utility shall not assess a late payment charge until the delinquent amount exceeds $10.

B. Finance fee. The utility may impose a finance fee no greater than 1-1/2 percent per ~~month~~ monthly billing period on the delinquent ~~account~~ amount.

~~B. Collection~~ C. Minimum finance fee. The utility may impose a ~~collection~~ minimum finance fee no greater than $1.

4 MCAR S 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

10:12 AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR - 3 1984
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
April 3 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

AG copy

Rules as Adopted 3/2/84

4 MCAR § 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR §§ 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent ~~account~~ amount. "Delinquent ~~account~~ amount" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a ~~utility's~~ budget billing plan or a payment schedule ~~under 4 MCAR § 3.0299 G.~~, "delinquent ~~account~~ amount" means the lesser of the outstanding account balance or the outstanding scheduled ~~monthly~~ payments.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent ~~account~~ amount.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02, as modified by Minnesota Statutes, sections 216B.025 and 216B.026.

E. Residential customer. "Residential customer" means a customer of a utility whose principal use of gas or electricity is for household purposes such as lighting, cooking, water heating, and space heating in space occupied as living quarters. Utility service is normally supplied through a single meter to a single family dwelling unit, but apartments or other subdivided dwelling units may be classified as residential even though several individual units take service through the same meter.

4 MCAR § 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge which results from delinquent payment.

4 MCAR § 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's ~~utility~~ bill payment is not ~~paid~~ received by the utility by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility. The utility may print a due date on the bill which is not more than five days before the next scheduled billing date.

B. Nonresidential customer. If a nonresidential customer's utility bill is not ~~paid~~ received by the utility within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

4 MCAR § 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge. The filing shall include substantiating documents and exhibits supporting the finance fee and grace periods proposed.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly and the annual percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

D. Implementation. Within 90 days of the effective date of this rule, the utility shall comply with the tariff, bill content, and uniformity requirements of this rule.

4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility ~~must consist of the following two components~~ shall be calculated as follows:

A. Minimum delinquent amount. The utility shall not assess a late payment charge until the delinquent amount exceeds $10.

A.B. Finance fee. The utility may impose a finance fee no greater than 1 1/2 percent per monthly billing period on the delinquent ~~account~~ amount.

B.C. ~~Collection~~ Minimum finance fee. The utility may impose a ~~collection~~ minimum finance fee no greater than $1.

4 MCAR § 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Deliquency Charges	DOCKET NO. G,E-999/R-83-99 ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 25th day of February, 1983, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Public Utilities Commission for that purpose and be published in the State Register.

BY ORDER OF THE COMMISSION

Randall D. Young
Executive Secretary

SERVICE DATE: FEB 25 1983

(S E A L)

RDY:CKS:ST

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Randall D. Young, do hereby certify that I am the Executive Secretary of the Minnesota Public Utilities 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 a resolution adopted at a meeting of the Minnesota Public Utilities Commission, duly and properly called and held on the 23rd day of June 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Randall D. Young, Executive Secretary of the Minnesota Public Utilities Commission, be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating rules of the Commission governing utility delinquency charges, as well as perform any and all acts incidental thereto, including but without being limited to, signing an Order for Hearing and Notice of Hearing as well as acting as or designating other members of the Commission's staff to act as the Commission's representative at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16th day of February 1984.

Randall D. Young
Executive Secretary

ATTEST BY: Leo G. Adams
Leo G. Adams, Chairman

RC/djs

~~(d)~~ (c) 20% for potatoes damaged by sprouts; and

~~(e)~~ (d) 20% for potatoes which fail to meet the remaining requirements of the grade, provided~~,~~ that included in ~~this~~ that amount not more than the following percentages ~~shall be~~ are allowed:

(i)-(ii) [Unchanged.]

(iii) 6% serious damage for other defects other than ~~sunburn,~~ hollow heart, and internal discoloration ~~(~~other than hollow heart~~)~~ provided, that of this six percent not more than the following percentages ~~shall be~~ are allowed for the following defects:

~~(aa)~~	~~Late blight tuber rot~~	~~2%~~
~~(bb)~~ (aa)	Soft rot, frozen, or wet breakdown	0.5%
~~(cc)~~ (bb)	Bacterial ring rot	0.0%
~~(dd)~~ (cc)	Powdery scab	0.0%

(2) [Unchanged.]

3. [Unchanged.]

B.-D. [Unchanged.]

Minnesota Public Utilities Commission

Proposed Rules of the Minnesota Public Utilities Governing Utility Delinquency Charges

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission (the commission) proposes to adopt the above-entitled rules without a public hearing. The commission has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Randall D. Young, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
Kellogg & Robert Streets
St. Paul, Minnesota 55101
Ref: Docket No. G,E-999/R-83-99

Authority for the adoption of these rules is contained in Minnesota Statutes sections 216A.05, 216B.03, and 216B.23. Additionally, a statement of need and reasonableness that describes the need and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Christopher K. Sandberg at the above address upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

this material to the Attorney General or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Sandberg.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. Sandberg.

Randall D. Young, Executive Secretary
Minnesota Public Utilities Commission

Rules as Proposed (all new material)

4 MCAR § 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR §§ 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent account. "Delinquent account" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a utility's budget billing plan or a payment schedule under 4 MCAR § 3.0299 G., "delinquent account" means the lesser of the outstanding account balance or the scheduled monthly payment.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent account.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02.

4 MCAR § 3.0318 Billing terms.

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Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must consist of the following two components:

A. Finance fee. The utility may impose a finance fee no greater than 1½ percent per month on the delinquent account.

B. Collection fee. The utility may impose a collection fee no greater than $1.

4 MCAR § 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Joyce Y. Petsch, being first duly sworn, deposes and says:

That on the 7th day of September, 1983, (s)he served the attached Amended Notice and Order for Hearing

Docket No. G, E-999/R-83-99

[X] by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

[ ] by personal service

to all persons at the addresses indicated below or on the attached list:

See attached list.

Joyce Y. Petsch

Subscribed and sworn to before me
this 7th day of Sept., 1983
Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES FEB. 8, 1986

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges.	DOCKET NO. G, E 999/R-83-99 AMENDED NOTICE AND ORDER FOR HEARING.

Notice is hereby given that the public hearing in this mater originally scheduled for Tuesday, September 13, 1983 has been rescheduled. A public hearing will now be held pursuant to M. S. § 14.14, subd. 1, on Thursday, October 20, 1983, in the U. S. Courthouse, 316 North Robert Street, Courtroom 588, St. Paul, Minnesota 55101, commencing at 9:30 a.m. and continuing until all persons or representatives of associations or other interest groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

In all other respects the Notice and Order for Hearing dated July 5, 1983, and published in the State Register on July 18, 1983 at 8 S.R. 82 to 8 S.R. 84, is unchanged.

ORDER

1. A public hearing shall be held on October 20, 1983 in the U. S. Courthouse, 316 North Robert Street, Courtroom 588, St. Paul, Minnesota, 55101, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

2. This Amended Notice and Order shall be mailed to all persons who have registered their names with the Commission for the purpose of receiving notice of rulemaking.

3. This Amended Notice and Order shall be published in the State Register.

BY ORDER OF THE COMMISSION

Randall D. Young
Executive Secretary

SERVICE DATE: SEP 7 1983

(S E A L)

	##ENTRY # 1##	##ENTRY # 2##	##ENTRY # 6##	##ENTRY # 13##	##ENTRY # 16##
A	ORBIN HOLT SECT/TREAS.	LLOYD V. CRUM JR.	HALL L. SHELLA CO-OWNER	C. WAYNE FOX	MARK F. DAHLBERG-V.PRES.
B	BIGFORK VALLEY ELECTRIC	COMMUNITY UTILITY CO.	HOME LIGHT & POWER CO.	MONTANA-DAKOTA UTILITIES	NORTHWESTERN WISCONSIN
C	SERVICE COMPANY	RACINE MN 55967	105 E. WALL ST.	400 NORTH FOURTH STREET	ELECTRIC COMPANY
D	BIGFORK MN 56628		JASPER MN 56156	BISMARCK ND 58501	GRANTSBURG WI 54840
E		RG		RG	
F	RE		RE	RE	RE
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J	W	W	W	W	W

	##ENTRY # 17##	##ENTRY # 21##	##ENTRY # 22##	##ENTRY # 23##	##ENTRY # 24##
A	WILLIAM GIESEN	A. STRICKER VICE PRES.	F. K. LITTLE-VICE PRES.	D. E. HAMILL PRESIDENT	DEAN LINDSEY
B	OTTER TAIL POWER COMPANY	GREAT PLAINS NATURAL GAS	INTER-CITY GAS LTD. INC.	INTERSTATE POWER COMPANY	IOWA ELECTRIC LIGHT & PO
C	215 SO. CASCADE ST.	105 W. LINCOLN BOX 176	1004 CLOQUET AVE.	1000 MAIN ST.	P. O. BOX 351
D	FERGUS FALLS MN 56537	FERGUS FALLS MN 56537	CLOQUET MN 55720	DUBUQUE IA 52001	CEDAR RAPIDS IA 52401
E		RG	RG	RG	RG
F	RE			RE	
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J	W				

	##ENTRY # 25##	##ENTRY # 26##	##ENTRY # 27##	##ENTRY # 28##	##ENTRY # 29##
A	EDWARD H. SWETMAN-V.PRES	G. J. O'BRIEN-DIRECTOR	ROY H. BERGLUND-V. PRES.	G. L. STAMM-V. PRES.-ADM	PAUL F. ZUPPKE-PRESIDENT
B	MINNEGASCO	NO. CENTRAL PUBLIC SERV.	NORTHERN STATES POWER CO	PEOPLES NATURAL GAS CO.	WESTERN GAS UTILITIES
C	201 SO. 7TH ST.	1930 COON RAPIDS BLVD.	414 NICOLLET MALL	P. O. BOX 338	3900 WASHINGTON AVE. NO.
D	MINNEAPOLIS MN 55402	COON RAPIDS MN 55433	MINNEAPOLIS MN 55401	COUNCIL BLUFFS IA 51501	MINNEAPOLIS MN 55412
E	RG	RG	RG	RG	RG
F	RE	RE	RE		
G	RP				
H	ALL	GE			
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 30##	##ENTRY # 31##	##ENTRY # 32##	##ENTRY # 33##	##ENTRY # 34##
A	JAMES HABICHT-ASST. SECT	P. J. BREWER-VICE PRES.	RICHARD OKERBERG-GEN MGR	WADE R. HENSEL-GEN. MGR.	FRANK RATHBUN-MANAGER
B	MINNESOTA POWER	OTTER TAIL POWER COMPANY	DAKOTA ELECTRIC ASSN.	FROST-BENCO ELECTRIC	PEOPLES NATURAL GAS CO.
C	30 WEST SUPERIOR ST.	215 CASCADE ST.	4300 220TH ST. WEST	P. O. BOX 8	25 MAIN PLACE
D	DULUTH MN 55802	FERGUS FALLS MN 56537	FARMINGTON MN 55024	MANKATO MN 56001	COUNCIL BLUFFS IA 51501
E					RG
F	RE	RE	RE	RE	
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 35##	##ENTRY # 36##	##ENTRY # 37##	##ENTRY # 38##	##ENTRY # 39##
A	MARK HALLGREN	RAYMOND E. O'CONNELL	STEVEN GERHART	COLLEEN LAMONT	STEVE MOSES
B	SUITE 918	MINNEGASCO	IOWA ELECTRIC LIGHT & PO	PEOPLES NATURAL GAS CO.	24 ABBOT AVE. S.W.
C	MIDWEST PLAZA	201 SO. 7TH ST.	P. O. BOX 351	2223 DODGE ST.	MADELIA MN 56062
D	MINNEAPOLIS MN 55402	MINNEAPOLIS MN 55402	CEDAR RAPIDS IA 52406	OMAHA NB 68102	
E	R	RG	RG	RG	R
F					
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 40##	##ENTRY # 41##	##ENTRY # 42##	##ENTRY # 43##	##ENTRY # 44##
A	L. R. KNUDSON	HARTLEY MEDIN	RICHARD CARLUND	CRAIG R. RAPP	ANDREW C. GIBAS
B	INTER-CITY GAS LTD. INC.	WESTERN GAS UTILITIES	NEW YORK MILLS MUNI. GAS	CLERK-ADMINISTRATOR	9 WEST ROAD
C	1004 CLOQUET AVE.	3900 WASHINGTON AVE. N.	BOX H	9201 N. LEXINGTON AVE.	CIRCLE PINES MN 55014
D	CLOQUET MN 55720	MINNEAPOLIS MN 55412	NEW YORK MILLS MN 56567	CIRCLE PINES MN 55014	
E	RG	RG	R	R	R
F					
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 45##	##ENTRY # 46##	##ENTRY # 47##	##ENTRY # 48##	##ENTRY # 49##
A	FRANK SCHLEPPENBACH	MN ELECTRICAL ASSN. INC.	DAVID S. DOUGLAS	MN RURAL ELECTRIC ASSN.	B. ZACH-ARVENSEN DONOHO
B	DEPT. OF WATER AND GAS	3100 HUMBOLDT AVE. SO.	OLSON'S POINT	4901 WEST 77TH ST.	LUNDEEN HOFF SVINGEN ENG
C	414 WEST 1 ST.	MINNEAPOLIS MN 55408	BUFFALO MN 55313	MINNEAPOLIS MN 55435	125 S. MILL ST.
D	DULUTH MN 55802				FERGUS FALLS MN 56537
E	R				
F		R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 50##	##ENTRY # 51##	##ENTRY # 52##	##ENTRY # 53##	##ENTRY # 54##
A	LEWIS BRADFORD	PAUL IMS	WAYNE LANCE-CLERK/TREAS.	MELVIN A. AHONEN-GEN MGR	GARY DEFRIES
B	215 HARRISON ST.	RURAL ROUTE	CITY OF DETROIT LAKES	NORTH PINE ELECTRIC COOP	5800 85TH AVE. NORTH
C	ANOKA MN 55303	EXHO MN 56237	P. O. BOX 647	FINLAYSON MN 55735	BROOKLYN PARK MN 55443
D			DETROIT LAKES MN 56501		
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 55##	##ENTRY # 56##	##ENTRY # 57##	##ENTRY # 58##	##ENTRY # 59##
A	DAVE HARTLEY	RICHARD A. VOLLER	JOHN T. ANDERSON	RUSSELL F. BERG	CLEARWATER-POLK
B	504 SECOND ST.	885 PRENTICE	POWER & LIGHT DEPARTMENT	104 NORTH JEFFERSON	UTILITIES
C	JACKSON MN 56143	GRANITE FALLS MN 56241	BOX 528	WADENA MN 56482	
D			THIEF RVR FALLS MN 56701		BAGLEY MN 56621
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 60##	##ENTRY # 61##	##ENTRY # 62##	##ENTRY # 63##	##ENTRY # 64##
A	PUBLIC UTILITIES COMMIS.	DANIEL R. DUKLET	PUBLIC UTILLITIES COMM.	DELANO PUBLIC UTILITIES	DALLAS E. NELSON
B	117 NORTH MAINE	SUPERINTENDENT	120 FIRST ST. N.W.	11 WEST BRIDGE AVE.	BOX 521
C	BAGLEY MN 56621	HALSTAD MN 56548	AITKIN MN 56431	DELANO MN 55328	LITCHFIELD MN 55355
D					
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 65##	##ENTRY # 66##	##ENTRY # 67##	##ENTRY # 68##	##ENTRY # 69##
A	EARL LA MAACK	DWANE BRASE	LEONARD G. TAUER-SUPT.	ALLEN F. SCHRUPP	ELAINE J. DE BEIER
B	P. O. BOX 609	SUPERINTENDENT	ALPHA ELECTRIC DEPT.	1604 7 1/2 ST. S.W.	MINNESOTA POWER
C	ALEXANDRIA MN 56308	508 SOUTH ST.	P. O. BOX 97	WILLMAR MN 56201	30 WEST SUPERIOR ST.
D		WASECA MN 56093	ALPHA MN 56111		DULUTH MN 55802
E					
F	R	R	R	R	RE
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 70##	##ENTRY # 71##	##ENTRY # 72##	##ENTRY # 73##	##ENTRY # 74##
A	GENERAL MANAGER	JAMES BIGGAR	LOUIS VAN HOUT	JOHN HINNENKAMP-UT.SUPT.	BLUE EARTH LIGHT & WATER
B	BROWN COUNTY RURAL	UTILITY SUPERINTENDENT	1030 E. FOURTH AVE.	MELROSE MUNICIPAL UTIL.	DEPARTMENT
C	ELECTRIC ASSOCIATION	205 WEST CENTER	SHAKOPEE MN 55379	21 WEST MAIN ST.	118 EAST SIXTH ST.
D	SLEEPY EYE MN 56085	LAKE CITY MN 55041		MELROSE MN 56352	BLUE EARTH MN 56013
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 75##	##ENTRY # 76##	##ENTRY # 77##	##ENTRY # 78##	##ENTRY # 79##
A	CITY OF WARROAD	ARROWHEAD ELECTRIC COOP.	WATER & LIGHT COMMISSION	BLOOMING PRAIRIE PUBLIC	RAY LITCHKE
B	P. O. BOX 50	P. O. BOX 38	P. O. BOX 418	UTILITIES	P. O. BOX 658
C	WARROAD MN 56763	LUTSEN MN 55612	MOOSE LAKE MN 55767	P. O. BOX 55	GRAND RAPIDS MN 55744
D				BLOOMING PRAIRIE MN55917	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 80##	##ENTRY # 81##	##ENTRY # 82##	##ENTRY # 83##	##ENTRY # 84##
A	EUGENE P. SULLIVAN	RONALD J. STECKMAN	ELMER LALLI	DEAN AMO	J. W. REICHEL-CITY CLERK
B	900 EAST KRAFT DR.	FREEBORN-MOWER ELEC.COOP	WATER & LIGHT DEPARTMENT	BOX 230	CITY OF FAIRFAX
C	MELROSE MN 56352	BOX 611	P. O. BOX 373	AITKIN MN 56430	112 S.E. FIRST ST.
D		ALBERT LEA MN 56007	BRAINERD MN 56401		FAIRFAX MN 55332
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 85##	##ENTRY # 86##	##ENTRY # 87##	##ENTRY # 88##	##ENTRY # 89##
A	RON SCHULER	AGRALITE COOPERATIVE	TRAVERSE ELECTRIC COOP.	SOUTHWESTERN MINNESOTA	C. G. WEBER
B	2526 SEVENTH AVE.	EAST HIGHWAY 12	P. O. BOX 66	COOPERATIVE ELECTRIC	207 E. FOURTH ST.
C	NORTH ST. PAUL MN 55109	BENSON MN 56215	WHEATON MN 56296	P. O. BOX 431	REDWOOD FALLS MN 56283
D				PIPESTONE MN 56164	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 90##	##ENTRY # 91##	##ENTRY # 92##	##ENTRY # 93##	##ENTRY # 94##
A	KASOTA ELECTRIC DEPT.	GOODHUE COUNTY COOP	GERALD MOE	DON BRANDT	JOHN A. COBB-GEN MGR
B	P. O. BOX 218	ELECTRIC ASSOCIATION	ELECTRICAL SUPT.	PEOPLES COOP POWER	ROCHESTER PUBLIC UTIL.
C	KASOTA MN 56050	224 MAIN ST.	212 CENTRAL AVE.	P. O. BOX 1039	506 FIRST AVE. N.E.
D		ZUMBROTA MN 55992	BUFFALO MN 55313	ROCHESTER MN 55901	ROCHESTER MN 55901
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 95##	##ENTRY # 96##	##ENTRY # 97##	##ENTRY # 98##	##ENTRY # 99##
A	MCLEOD COOP POWER ASSN.	HENRY E. HOLM	AL SUTHENLAND	WELLS ELECTRIC ASSN.	M. D. HENTGES
B	1231FORD AVE.	CARLTON COUNTY COOP PWR	P. O. BOX 86	P. O. BOX 156	LE SUEUR MUNICIPAL UTIL.
C	GLENCOE MN 55336	KETTLE RIVER MN 55757	LAKE CITY MN 56055	WELLS MN 56097	228 NORTH MAIN ST.
D					LE SUEUR MN 56058
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 100##	##ENTRY # 101##	##ENTRY # 102##	##ENTRY # 103##	##ENTRY # 104##
A	JAMES B. SANDEEN-SUPT.	DAVID P. LARSON-GEN MGR	PUBLIC UTILITIES COMM.	CHESTER RINDELS	THOMAS MC CAULEY
B	ST.PETER MUNICIPAL UTIL.	WRIGHT-HENNEPIN COOP.ELE	CITY OF GRAND MARAIS	CITY SUPERVISOR	BOX 779
C	BOX 299	MAPLE LAKE MN 55358	GRAND MARAIS MN 55604	PRESTON PUBLIC UTILITIES	MOORHEAD MN 56560
D	ST. PETER MN 56082			PRESTON MN 55965	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 105##	##ENTRY # 106##	##ENTRY # 107##	##ENTRY # 108##	##ENTRY # 109##
A	MANAGER	EARL L. JOHNSON-GEN MGR	ANDREW E. ANDERSON	CITY OF BROWNTON	CROW WING COOP POWER
B	P.K.M. ELECTRIC COOP	TRI-COUNTY ELECTRIC COOP	215 SOUTH CASCADE ST.		AND LIGHT
C	BOX 108	RUSHFORD MN 55971	FERGUS FALLS MN 56537	BROWNTON MN 55312	P. O. BOX 507
D	WARREN MN 56762				BRAINERD MN 56401
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 110##	##ENTRY # 111##	##ENTRY # 112##	##ENTRY # 113##	##ENTRY # 114##
A	RON KENNEDY-MANAGER	L. H. BRAKEL-GEN MGR	RAY LARSEN	DOUGLAS E. WALLACE-MGR.	CITY OF WHALEN
B	RED LAKE ELECTRIC COOP.	RED RVR VALLEY COOP PWR.	902 BEE ST.	NOBLES COOP ELECTRIC	
C	RED LAKE FALLS MN 56750	HALSTAD MN 56548	PROCTOR MN 55810	P. O. BOX 70	WHALEN MN 55986
D				WORTHINGTON MN 56187	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 115##	##ENTRY # 116##	##ENTRY # 117##	##ENTRY # 118##	##ENTRY # 119##
A	DON ANDERSON	C. W. PETERSON	DAWN SHERMAN O'NEILL	TOM JUNNILA	THOMAS J. STEARNS
B	BELTRAMI ELECTRIC COOP	BOX W	SUTHERLAND ASBILL &	5248 ZENITH AVE.	CITY OF ST. PAUL
C	BOX 488	PELICAN RAPIDS MN 56572	1666 K ST. N.W.--BRENNAN	MINNEAPOLIS MN 55410	1920 SUMMIT AVE.
D	BEMIDJI MN 56601		WASHINGTON D.C. 20006		ST. PAUL MN 55105
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 120##	##ENTRY # 121##	##ENTRY # 122##	##ENTRY # 123##	##ENTRY # 124##
A	EDWARD STARR-CTY ATTNY.	MARVIN J. JOHNSON	HUTCHINSON UTILITIES COM	CITY CLERK'S OFFICE	AL ROSS
B	647 CITY HALL-COURTHOUSE	718 N. HIGHWAY	225 MICHIGAN ST.	444 NINTH ST.	6356 WARE ROAD
C	FOURTH ST.	JACKSON MN 56143	HUTCHINSON MN 55350	WINDOM MN 56101	LINO LAKES MN 55014
D	ST. PAUL MN 55102				
E		R			
F	R	R	R	R	R
G		R			R
H		ALL	GE		EP
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 125##	##ENTRY # 126##	##ENTRY # 127##	##ENTRY # 128##	##ENTRY # 129##
A	LYON-LINCOLN ELECT COOP	MENNO MENNENGA	D. H. LOGUE	NORM SCHROEDER	BURLINGTON NORTHERN INC.
B	BOX 639 W. HIGHWAY 14	14 NO. MARSHALL AVE.	SUPT. OF UTILITIES	CITY ADMINISTRATOR	LAW DEPARTMENT
C	TYLER MN 56178	SPRINGFIELD MN 56087	130 SECOND AVE. N.W.	611 IOWA AVE.	176 EAST FIFTH ST.
D			SLEEPY EYE MN 56085	STAPLES MN 56379	ST. PAUL MN 55101
E		R	R		
F	R	R	R	R	R
G					
H		GE	RE		
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 130##	##ENTRY # 131##	##ENTRY # 132##	##ENTRY # 133##	##ENTRY # 134##
A	LOREN I. REID-SUPT.	R. G. KIRKHAM-EXEC. DIR.	TED C. ODENWALD-GEN.MGR.	N.E. DIETRICH-SUPT.	VIRGIL C. ANDERSON
B	LIGHT & POWER COM	MN MUNICIPAL UTIL. ASSN.	MUNICIPAL UTILITIES COMM	AUSTIN UTILITIES	MORA MUNICIPAL UTILITIES
C	305 ELEVENTH ST. EAST	P. O. BOX B	P. O. BOX 937	P. O. BOX 368	16 NORTH LAKE ST.
D	GLENCOE MN 55336	BUFFALO MN 55313	WILLMAR MN 56201	AUSTIN MN 55912	MORA MN 55051
E	R	R	R	R	R
F	E	R	R	R	R
G					
H	RE	GE	GE	GE	GE
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

	##ENTRY # 135##	##ENTRY # 136##	##ENTRY # 137##	##ENTRY # 138##	##ENTRY # 139##
A	PRESIDENT	MICHAEL D. CASPER	WENDY BORSHEIM	JOHN G. HORNER	STATE REGULATORY DIV.
B	INTERSTATE POWER COMPANY	203 NO. FIFTH ST.	MN RETAIL MERCHANTS ASSN	MN MULTI HOUSING ASSN.	FEDERAL-STATE REPORTS
C	1000 MAIN ST.	BRECKENRIDGE MN 56520	180 METRO SQUARE BLDG.	3100 W. LAKE ST.	5203 LEESBURG PIKE-1201
D	DUBUQUE IA 52001		ST. PAUL MN 55101	MINNEAPOLIS MN 55416	FALLS CHURCH VA 22041
E	RG	R	R	R	R
F	RE	R	R	R	R
G			R		R
H	GE	GE	ALL	GE	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 140##	##ENTRY # 141##	##ENTRY # 142##	##ENTRY # 143##	##ENTRY # 144##
A	PHILIP W. GETTS-DAYTON	CLEMENT F. SPRINGER JR.	R. L. LEACH-MGR-RATE DEP	MATILDA HOWARD	R. A. FORBES
B	HERMAN GRAHAM & GETTS	39 SO. LASALLE-ROOM 1120	INTERSTATE POWER COMPANY	222 GRAIN EXCHANGE BLDG.	THE PRINDEN CORPORATION
C	TEN S. FIFTH ST-STE 930	CHICAGO IL 60603	1000 MAIN ST.	323 FOURTH AVE.	301 E. 57TH ST.
D	MINNEAPOLIS MN 55401		DUBUQUE IA 52001	MINNEAPOLIS MN 55415	NEW YORK NY 10022
E	R	R	RG	R	R
F	R	R	RE	R	R
G				R	
H	GE	GE	GE	ALL	GE
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 145##	##ENTRY # 146##	##ENTRY # 147##	##ENTRY # 148##	##ENTRY # 149##
A	JUDY KARON	GARFIELD E. LOVAAS	JOANN FORD-MSE	OTTERTAIL-WADENA COMM.	KEVIN C. JONES
B	RAMSEY COUNTY BOARD	200 SO. FIFTH ST.	FAM. SRV. OF ST. CROIX	ACTION COUNCIL	GEO. A. HORMAL & COMPANY
C	316 COURT HOUSE	ROOM 1800	216 MYRTLE ST.	BOX L	P. O. BOX 800
D	ST. PAUL MN 55102	MINNEAPOLIS MN 55402	STILLWATER MN 55082	NEW YORK MILLS MN 56567	AUSTIN MN 55912
E	R	R	R	R	R
F	R	R	R	R	R
G		R	R		
H	GE	ALL	ALL	GE	GE
I	PGA	PGA	PGA	PGA	PGA
J					

	##ENTRY # 150##	##ENTRY # 151##	##ENTRY # 152##	##ENTRY # 153##	##ENTRY # 154##
A	WAKX AM-FM	RICHARD O. JOHNSON	GERALD L. MAHON-DIRECTOR	CITY OF ROSEMOUNT	CITY ADMINISTRATOR
B	419 W. MICHIGAN ST.	9457 COLUMBUS AVE. SO.	WATER UTILLITY	P. O. BOX 455	CITY OF MAPLE GROVE
C	DULUTH MN 55802	MINNEAPOLIS MN 55420	CITY HALL	ROSEMOUNT MN 55068	9401 FERNBROOK LANE
D			ST. CLOUD MN 56301		MAPLE GROVE MN 55369
E	R	R	R	R	
F	R	R	R	R	R
G	R	R		R	R
H	ALL	ALL	GE	ALL	EP
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC * G PHONE * H RULES MISC I PGA J M-CG-DEL-W

	ENTRY # 155	**ENTRY # 156**	**ENTRY # 157**	**ENTRY # 158**	**ENTRY # 159**
A	KENNETH L. GEBERT	W. C. VIITALA-DIR-PUB AF	W. JOHN LICKE-GEN COUNS.	A. L. POOLER	JOSEPH A. VUMBACO-P.E.
B	300 PUBLIC HEALTH BLDG.	HONEYWELL INC.	BLANDIN PAPER COMPANY	MINNEGASCO	19TH ST. & SIXTH AVE.
C	250 SO. FOURTH ST.	HONEYWELL PLAZA MN125215	114 FIRST ST. S.W.	201 SO. 7TH ST.	HIBBING MN 55746
D	MINNEAPOIS MN 55415	MINNEAPOLIS MN 55408	GRAND RAPIDS MN 55744	MINNEAPOLIS MN 55402	
E			R	RG	R
F	R	R	R	RE	R
G	R				
H	EP		GE	GE	GE
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 160	**ENTRY # 161**	**ENTRY # 162**	**ENTRY # 163**	**ENTRY # 164**
A	ROGER L. HERDT	MINNESOTA LP GAS ASSN.	BERDETTE BOYUM	DAVID J. THERKELSEN	LAWRENCE C. WARE-GEN MGR
B	UNITED TELEPHONE COMPANY	7515 WAYZATA BLVD	ROOM 300-PUBL HEALTH CTR	100 SOUTH ROBERT ST.	GARDEN VALLEY TELEPHONE
C	850 N.W. NATL BANK BLDG.	SUITE 101	250 SO. FOURTH ST.	ST. PAUL MN 55107	COMPANY
D	ST. PAUL MN 55101	MINNEAPOLIS MN 55426	MINNEAPOIS MN 55415		ERSKINE MN 56535
E	RG		R	R	
F	RE	R	R	R	R
G	RP				
H	ALL		GE	GE	EP
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 165	**ENTRY # 166**	**ENTRY # 167**	**ENTRY # 168**
A	ELIZABETH SCHMIDT	WINFIELD FOROBERG	MICHAEL L. JOHNSON	BUZZ CUMMINS
B	CITY CLERK	518 SUMMIT AVE.	117 WEST FIFTH ST.	MINNEGASCO
C	1015 SECOND AVE.	NEW ULM MN 56073	BLUE EARTH MN 56013	201 SO. 7TH ST.
D	MOUNTAIN LAKE MN 56159			MINNEAPOLIS MN 55402
E	R			RG
F	R			RE
G	R	R	R	
H	ALL			GE
I	PGA	PGA	PGA	PGA
J				

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J M-CG-DEL-W

Gordon Breczinski
R. 1, Box 162
Marshall, MN 56258

Orbin A. Holt, Sec.-Treas.
Peoples Telephone Co., Inc.
Bigfork, MN 56628

Ms. Tobey Lapakko
671 S. Victoria Rd.
St. Paul, MN 55118

Joni Kemp
The Minnesota Project
18 E. 22nd St.
Minneapolis, MN 55404

Mary Williams
18 E. 22nd St.
Minneapolis, MN 55404

William Brummer, Exec. Dir.
Tri-Valley Opportunity Council
14 S. Main
Crookston, MN 56716

Lock County Auditor
P.O. Box 100
Luverne, MN 56156

Jeff Muehler, Office Mgr.
103 N. 5th St.,P.O. Box 410
Breckenridge, MN 56520

Jared R. McComb
27 W. Minnehaha Pkwy.
Minneapolis, MN 55419

Jean Dawson, Editor
The Minnesota Gov't. Report
B-12 Press Room
State Capitol Bldg.

Kris Monteith
[redacted]A Reporting Services, Inc.
1101 - 15th St. NW, Suite 204
Washington, DC 20005

Minneapolis Assn. of Building
Owners & Managers, Inc.
927 Soo Line Bldg.
Minneapolis, MN 55402

Art Swanson Trucking, Inc.
Route 2, Box 134
McIntosh, MN 56556

Jim McGill Bi-County CAC
Box 553
Bemidji, MN 56601

Greg Mangold
Carver County Courthouse
Chaska, MN 55318

Legislative Reference Library
Room 111
State Capitol

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Room 111
State Capitol

Legislative Reference Library
Room 111
State Capitol

Robert Lockyear
14900 - 61st St. North
Stillwater, MN 55082

David Fadness
R.R. 1
Ruthton, MN 56170

Michael Moore
Northwest Reg. Develop. Com
125 Woodland Ave.
Crookston, MN 56716

Todd P. Young, Exec. Dir.
St. Paul Food Retailers Ass.
555 Wabasha
St. Paul, MN 55102

Richard P. Romeo
One Canal Plaza
Portland, Maine 04112

County Auditor
Courthouse
Bagley, MN 56621

Vern Ingvalson
MN. Farm Bureau Fed.
P.O. 43370
St. Paul, MN 55164

Bruno Aijala
3853 - 26th Ave. S.
Minneapolis, MN 55406

Clarence Sprague - Engineer
Green Giant Company
LeSueur, MN 56058

Richard L. Ramberg, Exec. Di
State Council for Handicappe
208 Metro Square Bldg.
St. Paul, MN 55101

Mrs. Judy Arel
Boise Cascade Corp.
P.O. Box 1310
International Falls, MN 5664

Blue Carstenson
3548 Holmes So.
Minneapolis, MN 55408

Executive Director
Arrowhead Reg. Dev. Comm.
[illegible]0 Arrowhead Place
Duluth, MN 55802

G & T Trucking Co.
Rt. 1, Cty.Rd. 2 & I35 South
Elko, MN 55020

Fred E. Isham, Jr.
Box 603
Nett Lake, MN 55772

Warren Schmidt
Independent District #78
Garden City, MN 56034

Catherine Sherwood
County Auditor
Box 496
Winona, MN 55987

Robert F. Stephens
25 Main Place
Council Bluffs, IA 51501

John H. Allers
7501 2nd Ave. South
Richfield, MN 55423

Joel Bennett
St. Paul Union Stockyards
South St. Paul, MN 55075

Paul N. Heckt, SAAG
1100 Bremer Bldg.
St. Paul, MN 55101

Graham R. Uzlik
County Auditor - Court House
Austin, MN 55912

James Jack
Dept. of Rec. & P.A.
Mankato State University
Mankato, MN 56001

Greg Fern
Setter, Leach & Lindstrom, Inc
1011 Nicollet Mall
Minneapolis, MN 55403

Wayne R. Carlson
126 No. Marshall Ave.
Litchfield, MN 55355

Agnes Engelbrecht
R. 4, Box 358
Alexandria, MN 56308

Earl H. Taylor, Clerk
City of Independence
1790 County Rd. 90
Maple Plain, MN 55359

Paul Farseth
State Welfare Dept.-Systems
Box 43170
St. Paul, MN 55164

Jeremy Lane, Legal Aid Soc.
222 Grain Exchange Bldg.
323 Fourth Ave. S.
Minneapolis, MN 55415

Richard Holtan
County Auditor
Mantorville, MN 55955

David Loch, Exec. Dir.
Reg. 5 Reg. Develop. Comm.
611 Iowa Ave.
Staples, MN 56479

Roberto M. Federigan
Bureau of National Affairs
1231-25th St. NW, Rm. 650
Washington, DC 20037

F. R. (Dick) Kadrie
657 Burr St.
St. Paul, MN 55101

Judson Kenyon, Exec. Dir.
Scott-Carver Econ. Council
5th & Oak
Carver, MN 55315

Charles F. Gosen
County Auditor
Box 808
Baudette, MN 56623

Robert De La Vega
Citizens League
84 S. 6th St.
Minneapolis, MN 55402

Gary Plotz
37 Washington Ave.
Hutchinson, MN 55350

James J. Ryan
2208 Central Trust Tower
Cincinnati, Ohio 45202

Crow Wing Concerned Citizer
Council
1216 S. 6th St.
Brainerd, MN 56401

Philip J. Clausen
2307 Standish St.
St. Paul, MN 55108

Jeanne Freeberg
c/o Central Comm. Inc.
112 N. Oak
[illegible], MN 55960

County Administration
Polk County Courthouse
Crookston, MN 56716

Rev. Donald Grummert
435 Adams St.
Minneapolis, MN 55413

Kenneth Peterson, Exec. Dir.
MPIRG
2[illegible] University Ave. SE
Minneapolis, MN 55414

Mary Ellen Bouska
[illegible]8 W. 6th St.
[illegible]nneapolis, MN 55102

Gordon Forbes, Counsel
Minn. Railroads Assn.
303 Hanover Bldg.,480 Cedar
St. Paul, MN 55101

Motor Vehicle Mfrs. Assn.
411 Main St. (215)
St. Paul, MN 55102

Charles Kroeger
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

John G. Horner
Minn. Multi Housing Assn.
3100 West Lake St.
Minneapolis, MN 55416

Douglas V.Moen
Houston County Auditor
Caledonia, MN 55921

Jay Myster
215 South Cascade St.
Fergus Falls, MN 56537

Thomas M. Polt, Attorney
McCarthy Bldg.
Eyota, MN 55934

Rod Danielson, Fin. Sec.
Local Union No. 87
411 Main St., Suite 210
St. Paul, MN 55102

Joyce Pesch, Exec. Dir.
West Central MN Comm.Action
Box 3026
Elbow Lake, MN 56531

Minn. Assn. of Cooperatives
55 Sherburne Ave.
St. Paul, MN 55103

Florence B. Hallberg, Clerk
City of Edina
4801 W. 50th St.
Edina, MN 55424

Halvor Lacher, Exec. Dir.
Semcac, Inc., Box 549
Rushford, MN 55971

Minn. Masonry Institute
7851 Metro Pkwy., Suite 103
Minneapolis, MN 55420

Jayne Berg
New Connection Programs, Inc
73 Leech St.
St. Paul, MN 55102

Library
Briggs & Morgan
2200 1st Nat'l.Bank Bldg.
St. Paul, MN 55101

MCAA
239 City Hall
Minneapolis, MN 55415

Phillips Legislative Service
459 Rice St.
St. Paul, MN 55103

James C. Shipman
Assn. of Minn. Counties
2305 Ford Pkwy.
St. Paul, MN 55118

David M. Grinb
Concordia College
Moorhead, MN 56560

City Desk
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

Tom Polansky
Renville County Court House
Olivia, MN 56277

Chuck Westin
800 Allworth Bldg.
Duluth, MN 55802

Luke Markve
Wright Co. C.A., P.O. Box 39
Waverly, MN 55390

NHRAC
3231 - 1st Ave. South
Minneapolis, MN 55408

Hal Marsolais, Exec. Dir.
MN-Dakotas Retail Hdwe. Assn.
3033 Excelsior Blvd.
Minneapolis, MN 55437

Bob Hagen
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

Director
Develop. Disab. Planning
200 Capitol Square Bldg.

John G. Pidgeon, City Mgr.
2215 W. Old Shakopee Rd.
Bloomington, MN 55431

Edward J. Kranz, City Admin.
100 Sibley St.
Hastings, MN 55033

Clarence E. Schultz
McLeod County Auditor
Glencoe, MN 55336

United Steelworkers of America
609 Providence Bldg.
Duluth, MN 55802

Patricia N. Wright
Dayton Hudson Corp.
777 Nicollet Mall
Minneapolis, MN 55402

Wright County Comm. Action
Box 39
Waverly, MN 55390

Linda Ewen
Anoka County Fin. Services
Courthouse, 3rd Floor
Anoka, MN 55303

Dwight A. Smith, Senate Res.
460 State Office Bldg.
St. Paul, MN 55155

David Sollenberger, City Mgr.
City Hall
4th & Lafayette St.
Winona, MN 55987

Susan P. Robertson, Exec. Dir.
430 State Office Bldg.
St. Paul, MN 55155

Robert W. Larson
P.O. Box 1096
Minneapolis, MN 55440

Lakes & Pines CAC
Energy Programs Dept.
329 West Forest
Mora, MN 55051

Carol Carlson, Admin. Asst.
City of Champlin
1200 Highway 52
Champlin, MN 55316

Clarence Johnson
3615 - 37th Ave. S.
Minneapolis, MN 55406

Scott G. Larson
339 East 1st AVe.
Cambridge, MN 55008

James F. Andre, City Mgr.
2660 Civic Center Dr.
Roseville, MN 55113

P. D. Brick
200 W. Superior St., #811
Duluth, MN 55802

Dick Grabco, Energy Dir.
281 Main St., Box 157
Lumbrota, MN 55992

Bob Franklin,City Editor
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

T.J. Manthey
Pickands Mather & Co.
1100 Superior Ave. NE
Cleveland, Ohio 44114

Craig A. Waldron
P.O. Box 3367
Mankato, MN 56001

MN. Gov. Eng. Council
722 - 91st Ave. NE
Blaine, MN 55434

Elmer Warolin, Auditor-Treas.
Mille Lacs County
Milaca, MN 56353

Bob Fitzgerald
3007 Lyndale AVe. S.
Minneapolis, MN 55408

P. J. Thornton
Iron Range Building Trades
107 S. 15th Ave. West
Virginia, MN 55792

D. H. Staph
Western Community Action
203 W. Main, P.O. Box 246
Marshall, MN 56258

R. J. Barto, Plant Mgr.
Midland Glass Co., Inc.
P.O.Box 69

Rick E. Carter
Minn. Assn. Health Care Facil
2850 Metro Drive, suite 429
Minneapolis, MN 55420

Donald Pauley
2401 Hwy 10
Mounds View, MN 55102

Advocate for the Blind
1821 University Ave.
St. Paul, MN 55104

Marvin B. Goldberg
375 Summit Ave.
St. Paul, MN 55105

James B. Sims
Suite 204 Metro Square
St. Paul, MN 55101

F. M. Christiansen
911 Capitol Square Bldg.
St. Paul, MN 55101

Ronald Revne, County Auditor
Watonwan County Courthouse
St. James, MN 56081

LeRoy A. Vos
7137 Burns Ave.
St. Paul, MN 55119

Melroy Peterson
Lake County Auditor
Lake County Court House
Two Harbors, MN 55616

Steve Wiener
P.O. Box 78
Marshall, MN 56258

Eldon J. Spencer, Supervisor
Residential Utility Unit
MN Office of Consumer Serv.
St. Paul, MN 55101
Metro Sq. Bldg.)

John E. Drawz
900 First National Bank
Minneapolis, MN 55402

Kenneth Benesh
Norman County Courthouse
[redacted], MN 56510

Martha Ballou
66 E. King
St. Paul, MN 55107

G. L. Kaziukewicz
Champion Packaging
P.O. Box 43260
St. Paul, MN 55164

Gary L. Dickson, City Mgr.
City of Shoreview
4665 No. Victoria
Shoreview, MN 55112

Michael & Helen McAlister
4295 Elizabeth Lane
Vadnais Heights, MN 55110

Gary N. Sudduth
MUL 411 E. 38th St.
Minneapolis, MN 55409

Otis A. Loose
Auditor - Admin.
Brown County - P.O. Box 248
New Ulm, MN 56073

John R. Langan
Courthouse
Benson, MN 56215

Herbert Anderson
418-8th St. S.
Virginia, MN 55792

City of St. Charles
1242 Whitewater Ave.
St. Charles, MN 55972

Allan W. Naslund, Auditor
Carlton County Courthouse
Carlton, MN 55718

David M. Martin
Owatonna Public Utilities
P.O. Box 800
Owatonna, MN 55060

Senate Commerce Committee
Room 309 State Capitol
St. Paul, MN 55155

DeWayne Rubedor
523 Sinclair Lewis Ave.
Sauk Centre, MN 56378

Samuel W. Shult, City Clerk
106 E. 1st St.
Winthrop, MN 55396

Ed Shukle, City Mgr.
City of Benson
1411 Pacific Ave.
Benson, MN 56215

John W. Cook
310 E. 3rd St.
Park Rapids, MN 56470

Katie McWatt
401 Selby Ave.
St. Paul, MN 55102

Bill Freeman
501 S. 1st St.
Montevideo, MN 56265

Tom Brenner
Social Action Center
8701 - 36th Ave. No.
New Hope, MN 55427

Wayne H. Olson
Olson, Gunn & Seran, Ltd.
315 Peavey Bldg.
Minneapolis, MN 55402

John A. Knapp
1500 Midwest Plaza Bldg.
Minneapolis, MN 55402

Mankato Citizens Tel. Co.
221 E. Hickory St.
Mankato, MN 56001

Gary R. Macomber
4344 IDS Center
Minneapolis, MN 55402

Jeff Baill, Esq.
570 Twin City Federal Tower
Minneapolis, MN 55402

Izaak Walton League of Amer.
Minnesota Division
3255 Hennepin Ave., Suite 109
Minneapolis, MN 55408

BURT Associates
P.O. Box 14299
Columbus, Ohio 43214

Mr. Leonard Erickson
Energy Engineer, Paper Group
Biose Cascade Corp.
International Falls, MN 56649

Kay Bonner Nee
219 Logan Pkwy.
Fridley, MN 55432

Sam Ruhle, OAH
400 Summit Bank Bldg.
310 South Fourth Ave.
Minneapolis, MN 55415

City of Warren
26 West Johnson
Warren, MN 56762

Jerry Neppel
E. Grand Forks Water & Light
Box 480
East Grand Forks, MN 56721

Harold Steppuhn
P.O. Box 218
Princeton, MN 55371

Tom Hedges
5795 Pilot Knob Road
Eagan, MN 55122

Peter MacLaughlin
Urban Coalition of Minneapolis
89 South 10th St.
Minneapolis, MN 55403

Center for Local Self Reliance
3302 Chicago Ave.
Minneapolis, MN 55407

Mary Hile
3419 James Ave. No.
Minneapolis, MN 55412

Helen King
22 O'day
St. Paul, MN 55119

Anita Wright
679 Simon Ave.
St. Paul, MN 55117

Sport Shack
1581 Selby
St. Paul, MN 55104

Judith King
2111 Dorothy Ave.
White Bear Lake, MN 55110

Art Enkers
2430 Mangolia Lane North
Plymouth, MN 55441

Mrs. Norinne McCarthy
2356 Swan Drive
Mendota Heights, MN 55120

Peter Wykoff, Director
Metropolitan Senior Federation
1951 University Ave.
St. Paul, MN 55104

Jim Miller
MPIRG
2412 University Ave. S.E.
Minneapolis, MN 55414

Paul Marincell
Anoka Peoples Alliance for Change
7150 E. River Road
Fridley, MN 55432

Jim Graham
Crow Wing Concerned Citizens Council
619 Poplar
Crosby, MN 56441

Karen Swenson
City Council Research Center
7th Floor City Hall
St. Paul, MN 55101

Denise Anderson
St. Paul Chamber of Commerce
701 No. Central Tower
445 Minnesota St.
St. Paul, MN 55101

St. Paul Tenants' Union
500 Laurel
St. Paul, MN 55102

Dave Schwan
11940 N.W. Ilex Circle
Coon Rapids, MN 55433

John Gondek
1641 N.E. West Innsbruck Circle
Columbia Heights, MN 55421

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Deborah Smith, being first duly sworn, deposes and says:

That on the 2nd day of August 1983, (s) he serve the attached Notice and Order for Hearing and Proposed Rules Governing Utility Delinquency Charges

DOCKET NO.: G, E-999/R-83-99

(XX) by depositing in the United States Mail at the City of St.Paul, a true and correct copy thereof, properly enveloped with postage prepaid;

( ) by personal service;

to all persons at the addresses indicated below or on the attached list:

See Attached List

Subscribed and sworn to before me
this 2nd day of Aug., 1983

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES FEB. 8, 1990

Deborah Smith

Mulk 8-2-83

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges.	DOCKET NO. G,E 999/R-83-99 NOTICE AND ORDER FOR HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. § 14.14, subd. 1, on Tuesday, September 13, 1983, in the Minnesota Public Utilities Commission (the Commission) Large Hearing Room, Seventh Floor, American Center Building, 150 E. Kellogg Blvd., St. Paul, Minnesota, commencing at 9:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

Authority for the adoption of these rules is contained in M.S. §§ 216A.05, 216B.03, and 216B.23.

The purpose of the proceeding is to determine the need for and reasonableness of the proposed rules as well as allowing the Commission the opportunity to obtain additional public input on the form and content of the proposed rules.

The hearing will be held before Hearing Examiner Richard DeLong, Office of Administrative Hearings, 400 Summit Bank Building, 310 South 4th Ave., Minneapolis, Minnesota 55415, telephone (612) 341-7604, a hearing examiner appointed by the chief hearing examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, by themselves, or any other representative of their choice, if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted in accordance with the applicable laws relating to the commission, the Administrative Procedures Act (Minn. Stat. §§ 14.13 - 14.20), the Rules of the Office of Administrative Hearings (9 MCAR §§ 2.101 through 2.113), and the Rules of Practice of the Commission (Minn. Reg. PSC 500 through 521), to the extent that they have not been superseded by the Rules of the Office of Administrative Hearings.

The above-cited procedural rules are available for inspection at the Office of Administrative Hearings and the Commission, or may be purchased from the State Register and Public Documents Division of the Department of Administration, 117 University Ave., St. Paul, Minnesota 55155, telephone (612) 297-3000.

The cited procedural rules provide generally for the procedural rights and obligations including the right to present evidence and cross examine witnesses, the right to purchase a record or transcript, and the obligation to meet certain time limits.

A copy of the proposed rules is attached to this notice and order.

Any interested person will be provided with one copy of the proposed rules without charge upon request to Randall D. Young, telephone number (612) 296-7526. Additional copies will be available at the hearings.

In the interest of efficiency, the Commission requests that any person having comments on or objections to any part of the proposed rules submit their comments or objections to the Commission (attention Randall D. Young, Executive Secretary, Docket No. G,E 999/R-83-99) and to Hearing Examiner DeLong as soon as possible and preferably prior to September 9, 1983. Any such comments or objections should:

state concisely and with particularity each portion of the proposed rules that the author supports or objects to;

state the basis for the author's support or objection; and

state any proposed modifications to the proposed rules, the author's reasons for those modifications, and the basis for those modifications.

Failure to submit such comments or objections prior to the hearing will not prohibit any person from submitting written or oral statements on the record at the hearing.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Commission's offices and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Commission anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or by the Commission in the determination of the above-cited matter. Persons attending the hearing should bring all factual information and evidence bearing on the case which they wish to have included in the record.

At the hearing, the Commission will, through its staff's written and oral testimony, explain the proposed rules and the Commission's reasons for proposing them. Copies of any written testimony and the statement of need and reasonableness will be available at the hearing.

Upon completion of the Commission's presentation, interested persons will be given an opportunity to address questions to the Commission's staff and to submit written and oral statements. It is the Commission's intent and desire that after its staff has completed its presentation, comments and statements be received from interested persons before proceeding to questioning. An opportunity to question the Commission's staff will be afforded all persons upon completion of the exchange of information and comments.

Interested persons who wish to make statements may do so by responding to the Commission's presentation or by offering new information. In addition, interested persons may request the Commission's staff to provide further explanations of any portion of the proposed rules if the persons are unclear about the Commission's reasons. All persons making oral statements are subject to questioning by the Commission's staff.

The Commission will respond, in so far as possible, at the hearing to objections and questions presented at the hearing by interested persons. Interested persons may respond with oral or written statements to any new information presented by the Commission. The Commission may respond to objections or comments in writing after the close of the hearing.

Written material may be submitted and recorded in the hearing record for five working days after the conclusion of the public hearing. Such a comment period may be extended for a period not to exceed 20 calendar days if so ordered by the Hearing Examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Commission may not take any final action on the rules for a period of five working days. Any persons may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Commission. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or the Commission (in

the case of the Commission's submission or resubmission to the Attorney General).

All persons are advised that the proposed rules may be modified as a result of the hearing process.

Questions concerning the content or form of the above-entitled rules should be directed to Randall D. Young, 780 American Center Bldg., 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone (612) 296-7526. Any questions concerning the conduct of the hearing should be directed to the assigned Hearing Examiner.

M.S. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in M.S. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

O R D E R

1. A public hearing shall be held on September 13, 1983, in the Large Hearing Room, Seventh Floor American Center Building, 150 E. Kellogg Blvd., St. Paul, Minnesota, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

2. This Notice and Order shall be mailed to all persons who have registered their names with the Commission for the purpose of receiving notice of rulemaking.

3. This Notice and Order shall be published in the State Register.

BY ORDER OF THE COMMISSION

Randall D. Young
Executive Secretary

SERVICE DATE: JUL 5 1983

(S E A L)

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

AFFIDAVIT OF MAILING NOTICE OF RESUBMISSION TO ATTORNEY GENERAL

DOCKET NO. E-999/R-83-99

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rosellen M. Condon, being first duly sworn, deposes and says:

That on the 14th day of March 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Resubmission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Rosellen M. Condon
Rosellen M. Condon

Subscribed and sworn to before me this 14th day of March 1984.

Karen Dorff

KAREN DORFF
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES APRIL 14, 1990

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

AFFIDAVIT OF PERMISSIVE MAILING

Christopher K. Sandberg, being first duly sworn deposes and says:

That on the 14th day of March, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on the persons and associations on the attached list.

Christopher K. Sandberg
Legal Research Analyst

Subscribed and sworn to before me
this 14th day of March, 1983.

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES FEB. 8, 1990

Minnesota Public Utilities Commission

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Governing Utility Delinquency Charges.

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) proposes to adopt the above-entitled rules without a public hearing. The Commission has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 14.13-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should sumbit such comments or request to:

Randall D. Young, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
Kellogg & Robert Streets
St. Paul, Minnesota 55101
Ref: Docket No. G,E-999/R-83-99

Authority for the adoption of these rules is contained in Minnesota Statutes section 216A.05, 216B.03, and 216B.23. Additionally, a Statement of Need and Reasonableness that describes the need and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Christopher K. Sandberg at the above address upon request.

Upon Adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Sandberg.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Mr. Sandberg.

Randall D. Young, Executive Secretary
Minnesota Public Utilities Commission

Rules as Proposed (all new material)

4 MCAR S 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR SS 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent account. "Delinquent account" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a utility's budget billing plan or a payment schedule under 4 MCAR S 3.0299 G., "delinquent account" means the lesser of the outstanding account balance or the scheduled monthly payment.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent account.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02.

4 MCAR S 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge which results from delinquent payment.

4 MCAR S 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's utility bill is not paid by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

B. Nonresidential customer. If a nonresidential customer's utility bill is not paid within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

working days before the date of mailing of the bill by the utility.

4 MCAR S 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

4 MCAR S 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must consist of the following two components:

A. Finance fee. The utility may impose a finance fee no greater than 1-1/2 percent per month on the delinquent account.

B. Collection fee. The utility may impose a collection fee no greater than $1.

4 MCAR S 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD311

Agency: Department of Public Service

Division: Public Utilities Commission

Agency Contact: Christopher K. Sandberg

Rule Numbers: 4 MCAR SS 3.0317; 3.0318; 3.0319; 3.0320; 3.0321; 3.0322

Title: Proposed Rules Governing Public Utility Delinquency Charges

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Ron Ray
Assistant Revisor
Phone: 296-0945
Date: February 21, 1983

ADDITIONAL MAILING LIST-LATE PAYMRNT BILLS

Mary Hile
3419 James Ave. No.
Mpls., MN 55412

Helen King
22 O'day
St. Paul 55119

Anita Wright
679 Simon Ave.
St. Paul, MN 55117

Sport Shack
1581 Selby
St. Paul, MN 55104

Judith King
2111 Dorothy Ave.
White BEAR Lake, MN
55110

MN Electrical Assn., Inc
3100 Humboldt Avenue South
Minneapolis, MN 55408
E

Dave Hartley
504 Second Street
Jackson, MN 56143
E

Dallas E. Nelson
Box 521
Litchfield, MN 55355
E

David S. Douglas
Olson's Point
Buffalo, MN 55313
E

Richard A. Voller
885 Prentice
Granite Falls, MN 56241
E

Northwestern Wisconsin Electr
Company
Mark Dahlberg, V.P.
Box 8
Grantsberg, Wisc. 54840 E

MN Rural Electric Assn.
4901 West 77th Street
Minneapolis,MN 55435
E

James Habicht
Minnesota Power
30 West Superior Street
Duluth, MN 55802
E

Earl LaMaack
P.O. Box 609
Alexandria, MN 56308
E

P.J. Brewer
Otter Tail Power Company
215 South Cascade
Fergus Falls, MN 56537
E

John T. Anderson
Power& Light Dept., Box 528
Thief River Falls, MN 56701
E

Dwane Brase, Supt.
508 South Street
Waseca, MN 56093
E

B. Zach E
Arvenson, Donoho, Lundeen,
Hoff, Svingen, & English
125 South Mill Street
Fergus Falls, MN 56537

Russell F. Berg
104 North Jefferson
Wadena, MN 56482
E

Alpha Electric Department
Leonard G. Tauer, Supt.
P.O. Box 97
Aplha, MN 56111
E

Lewis Bradford
215 Harrison Street
Anoka, MN 55303
E

Clearwater-Polk Utilities
Bagley, MN 56621
E

Allen F. Schrupp
1604-7½ Street SW
Willmar, MN 56201
E

Paul Ims
Rural Route
Exho, MN 56237
E

Public Utilities Commission
117 North Maine
Bagley, MN 56621
E

Elaine J. DeBeir
Governmental Affairs Asst.
Minnesota Power
30 West Superior Street
Duluth, MN 55802 E

Wayne Lance, Clerk-Treasurer
City of Detroit Lakes
1025 Roosevelt Avenue
P.O. Box 647
Detroit Lakes, MN 56501 E

Daniel R. Duklet, Supt.
Halstad, MN 56548
E

General MAnager
Brown County Rural Electric As
Sleepy Eye, MN 56085
E

Melvin A. Ahonen, Genl. Mgr.
North Pine Electric Coop.
Finlayson, MN 55735
E

Public Utilities Commission
120 First Street NW
Aitkin, MN 56431
E

James Biggar, Utility Supt.
205 West Center
Lake City, MN 55041
E

Gary Defries
5800 85th Avenue North
Brooklyn Park, MN 55443
E

Delano Public Utilities
11 West Bridge Avenue
Delano, MN 55328
E

Louis VanHout
1030 East Fourth Avenue
Shakopee, MN 55379
E

John J. Hinnenkamp, Utility Supt.
Melrose Municipal Utilities
21 West Main Street
Melrose, MN 56352 E

Elmer Lalli
Water & Light Dept.
P.O. Box 373
Brainerd, MN 56401
E

Googhue County Coop Elect. As
224 Main Street
Zumbrota, MN 55992
E

BlueEarth Light & Water Dpet.
118 East Sixth Street
Blue Earth, MN 56013
E

Dean Amo
Box 230
Aitkin, MN 56430
E

Gerald Moe, Electrical Supt.
212 Central Avenue
Buffalo, MN 55313
E

City of Warroad
P.O. Box 50
Warroad, MN 56763
E

J.W. Reichel, City Clerk
City of Fairfax
112 SE First Street
Fairfax, MN 55332
E

Don Brandt
People's Coop Power
P.O. Box 1039
Rochester, MN 55901
E

Arrowhead Electirc Coop.
P.O. Box 38
Lutsen, MN 55612
E

Ron Schuler
2526 Seventh Avenue
North St. Paul, MN 55109
E

John A. Cobb, Genl. Mgr.
Rochester Public Utilities
506 First Avenue NE
Rochester, MN 55901
E

Water & Light Commission
P. O. Box 418
Moose Lake, MN 55767
E

R.D. Okerberg
Dakota Electric Assn.
Farmington, MN 55024
E

McLeod Coop Power Assn.
1231 Ford Avenue
Glencoe, MN 55336
E

Blooming Prairie Public Utilities
146 Third Avenue SE
P.O. Box 55
Blooming Prairie, MN 55917
E

Agralite Cooperative
East Highway 12
Benson, MN 56215
E

Henry E. Holm
Carlton County Coop Power Ass.
Kettle River, MN 55757
E

Ray Litchke
P.O. Box 658
Grand Rapids, MN 55744
E

Traverse Electric Cooperative
P.O. Box 66
Wheaton, MN 56296
E

Al Suthenland
P.O. Box 86
Lake City, MN 56055
E

Eugene P. Sullivan
900 East Kraft Drive
Melrose, MN 56352
E

Southwestern Minnesota Coop. Electric
P.O. Box 431
Pipestone, MN 56164
E

Wells Electric Assn.
P.O. Box 156
Wells, MN 56097
E

Ronald J. Steckman, G.M.
Freeborn-Mower Electric Coop.
Box 611
Albert Lea, MN 56007
E

C.G. Weber
207 East Fourth Street
Redwood Falls, MN 56283
E

LeSueur Municipal Utilities
228 North Main Street
LeSueur, MN 56058
ATTN: M.D. Hentges E

President
Interstate Power Company
1000 Main Street
Dubuque, Iowa 52001

Kasota Electric Dept.
P.O. Box 218
Kasota, MN 56050
E

Wade Hensel
Frost-Benco Electric
P.O. Box 8
Mankato, MN 56001 E

LLOYD TURDES
INTERSTATE POWER
WINNEBAGO MN 56098

James B. Sandeen, Supt.
St. Peter Municipal Utilities
Box 299
227 South Front Street
St. Peter, MN 56082 E

Crow Wing Coop Power & Light
P.O. Box 507
Brainerd, MN 56401 E

Roy H. Berglund
VP of Commercial Operations
Northern States Power Co.
414 Nicollet Mall E
Minneapolis, MN. 55401

David P. Larson, G.M.
Wright-Hennepin Coop. Elect.
Maple Lake, MN 55358 E

Ron Kennedy, Manager
Red Lake Electric Coop
Red Lake Falls, MN 56750 E

Tom Junnila
5248 Zenith Ave.
Minneapolis, MN 55410

Hall L. Shella
Home Light & Power
105 E. Wall Street
Jasper, MN 56144 E

Red River Valley Coop Power
L.H. Brakel, G.M.
Halstad, MN 56548 E

Thomas J. Stearns
Rate Expert
City of St. Paul
1920 Summit Ave.
St. Paul, MN 55105

Public Utilities Commission
City of Grand MArais
Grand MArais, MN 55604 E

Ray Larsen
902 Bee Street
Proctor, MN 55810 E

Edward Starr, City Attorney
647 City Hall-Courthouse
Fourth Street
St. Paul, MN 55102

Preston Public Utilities
Chester Rindels, City Supv.
Preston, MN 55965 E

Douglas E. Wallace, Manager
Nobles Coop Electirc
P.O. Box 70
Worthington, MN 56187 E

Bob Ambrose
Cooperative Power Assn.
8020 Mitchell Rd.
Eden Prairie, MN 55344

Thomas McCauley
Box 779
Moorhead, MN 56560 E

City of Whalen
Whalen, MN 55986 E

Manager
P.K.M. Electric Coop
406 North Minnesota Street
Box 108
Warren, MN 56762 E

Don Anderson
Beltrami Electric Coop
Box 488
Bemidji, Mn 56601

Earl L. Johnson, G.M.
Tri-County Electric Coop
Rushford, MN 55971 E

C.W. Peterson
Box W
Pelican Rapids, MN 56572 E

Andrew E. Anderson
215 South Cancade Street
Fergus Falls, MN 56537 E

Dawn Sherman O'Neill
Sutherland, Asbill & Brennan
1666 K Street, N. W. E
Washington, D. C. 20006

City of Brownton
Brownton, MN 55312 E

Roy H. Berglund
VP of Commercial Operations
Northern States Power Company

PERSONS INTERESTED
IN MORE THAN ONE TYPE
OF RULE HEARING-PAGE ONE

Marvin J. Johnson G,E,T
718 N. Highway
Jackson, MN 56143

Burlington Northern Inc.
Law Department
176 East Fifth Street
St. Paul, MN 55101
E,TR

Wendy Borsheim G,E,T
MN Retail Merchants Assn.
180 Metro Square Building
St. Paul, MN 55101

C. Wayne Fox G,E
Montana-Dakota Utilities Co.
400 No. Fourth Street
Bismark, N.D. 58501

Loren I. Reid, Supt. G,E
Light and Power Commission
Municipal Electric Plant
305 Eleventh Street East
Glencoe, MN 55336

John G. Horner G,E
MN Multi Housing Assn.
3100 West Lake Street
Minneapolis, MN 55416

Hutchinson Utilities Comm.
225 Michigan Street
Hutchinson, MN 55350
G.E

E.A. Schroedermeier G,E,T
Minnegasco
733 Marquette Avenue
Minneapolis, MN 55402

State Regulatory Division
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, VA 22041
G,E,T

City Clerk's Office E,TR
444 Ninth Street
Windom, MN 56101

G.J. O'Brien, Secty.
North Central Public Service Co.
1080 Montreal Avenue
St. Paul, MN 55116
G,E

Philip W. Getts G,E,TR
Dayton, Herman, Graham & Getts
Suite 930, Ten South Fifth St.
Minneapolis, MN 55401

Al Ross E,T,TR
6356 Ware Road
Lino Lakes, MN 55014

R.G. Kirkham, Exec. Dir.
MN Municipal Utilities Assn.
P.O. Box B
10 Central Avenue
Buffalo, MN 55313 G,E

Metropolitan Senior Federation
1951 University Avenue
St. Paul, MN 55104
G,E,T

M.B. Olson G,E
Vice President, Com'l. Ops.
Northern States Power Co.
414 Nicollet Mall
Minneapolis, MN 55401

Ted C. Odenwald, G.M.
Municipal Utilities Comm.
P.O. Box 937
Willmar, MN 56201
G,E

Penny McCarren
St. Paul Area Chamber of Commerce
Suite 701, North Central Tower
445 Minneaota Street
St. Paul, MN 55101 G,E

Lyon-Lincoln Elect. Coop.
Box 639, W. Highway 14
Tyler, MN 56178
E,TR

N.E. Dietrich, Supt-G.M.
Austin Utilities
P.O. Box 368
Austin, MN 55912 G,E

Clement F. Springer, Jr.
39 South LaSalle, Room 1120
Chicago, Ill. 60603
G,E

Menno Mennenga G,E
14 North Marshall Avenue
Sprinffield, MN 56087

Virgil C. Anderson G,E
Mora Municipal Utilities
16 North Lake Street
Mora, MN 55051

R.L.Leach, Mgr.-Rate Dept.
Interstate Power Company
1000 Main Street
Dubuque, Iowa 52001 G,E

D.H. Logue, Supt. of Utilities
130 Second Avenue NW
Sleepy Eye, MN 56085
G,E

President G,E
Interstate Power Company
1000 Main Street
Dubugue, Iowa 52001

Matilda Howard G,E,T
222 Grain Exchange Building
323 Fourth Avenue
Minneapolis, MN 55415

Norm Schroeder, City Admin.
611 Iowa Avenue
Staples, MN 56479 E,TR

Michael D. Casper G,E,TR
203 North Fifth Street
Henridge, MN 56520

R.A. Forbes G,E
The Prinden Corporation
301 East 57th Street

PERSON INTERESTED IN
MORE THAN ONE TYPE OF RULES
HEARING PAGE TWO

Judy Karon G,E
Ransey County Board
316 Court House
St. Paul, MN 55102

Peggy Moody G,E
509 Sibley Street
St. Paul, MN 55101

Garfield E. Lovaas
200 South Fifth Street
Room 1800
Minneapolis, MN 55402
G,E,T

Family Service of the St. Croix Area
Jo Ann Ford, MSE
216 Myrtle Street
Stillwater, MN 55082 G,E,T

Fuertail-Wadena Community Action Council
Box L
New York Mills, MN 56567
G,E

Peter J. McLaughlin
Urban Coalition of Minneapolis
59 South Tenth Street
Minneapolis, MN 55403
G,E,T

Kenvin C. Jones G,E
George A. Hormel & Company
P.O. Box 800
Austin, MN 55912

WAKX AM-FM G,E,T
119 West Michigan Street
Duluth, MN 55802

Spencer Blaw G,E
St. Paul Tenants' Union
500 Laurel
St. Paul, MN 55102

Richard O. Johnson G,E,T
9457 Columbus Avenue South
Minneapolis, MN 55420

Gerald L. Mahon, Dir. Water Util.
City Hall
St. Cloud, MN 56301
G,E

City of Rosemount G,E,T
P.O. Box 455
Rosemount, MN 55068

City Administrator,
City of Maple Grove
9401 Fernbrook Lane
Maple Grove, MN 55369
E,T

Kenneth L. Gebert
300 Public Health Building
250 South Fourth Street
Minneapolis, MN 55415
E,T

W.C. Viitala, Dir. of Pub Aff.
Honeywell, Inc.
Honeywell Plaza MN12-5215
Minneapolis, MN 55408
E,TR

W. John Licke, Genl. Counsel
Blandin Paper Company
114 First Street SW
Grand Rapids, MN 55744
G,E,TR

A.L. Pooler G,E
Minnegasco
733 Marquette Avenue
Minneapolis, MN 55402

Joseph A. Vumbaco, P.E.
19th Street & Sixth Avenue
Hibbing, MN 55746
G,E

Roger L. Herdt G,E,T
Director of Govt. Affairs
United Telephone Company
850 NW National Bank Bldg.
St. Paul, MN 55101

Minnesota LP Gas Assn.
7515 Wayzata Blvd.- Suite 101
Minneapolis, MN 55426

Roy H. Berglund
VP of Commercial Operations
Northern States Power
414 Nicollet Mall G, E
Minneapolis, MN. 55401

Roy Munson G,E,TR
2387 University Avenue
St. Paul, MN 55114

James D. Miller G,E,T
2412 University Avenue SE
Minneapolis, MN 55414

Berdette Boyum G,E
Room 300, Public Health Cente
250 South Fourth Street
Minneapolis, MN 55415

David J. Therkelsen G,E
100 South Robert Street
St. Paul, MN 55107

Lawrence C. Ware, Genl. Mgr.
Garden Valley Telephone Co.
Erskine, MN 56535
E,T

Elizabeth Schmidt, City Clerk
1015 Second Avenue
Mountain Lake, MN 56159
G,E,T

Winfield Foroberg T,TR
518 Summit Avenue
New Ulm, MN 56073

Michael D. Johnson T,TR
117 West Fifth Street
Blue Earth, MN 56013

Gordon Breczinski
R. 1, Box 162
Marshall, MN 56258

Kris Monteith
S&FA Reporting Services, Inc.
1101 - 15th St. NW, Suite 204
Washington, DC 20005

Northwest Reg. Develop. Com
425 Woodland Ave.
Crookston, MN 56716

Orbin A. Holt, Sec.-Treas.
Peoples Telephone Co., Inc.
Bigfork, MN 56628

Minneapolis Assn. of Building
Owners & Managers, Inc.
927 Soo Line Bldg.
Minneapolis, MN 55402

Todd P. Young, Exec. Dir.
St. Paul Food Retailers Ass
555 Wabasha
St. Paul, MN 55102

Ms. Tobey Lapakko
1671 S. Victoria Rd.
St. Paul, MN 55118

Art Swanson Trucking, Inc.
Route 2, Box 134
McIntosh, MN 56556

Richard P. Romeo
One Canal Plaza
Portland, Maine 04112

Loni Kemp
The Minnesota Project
618 E. 22nd St.
Minneapolis, MN 55404

Jim McGill Bi-County CAC
Box 553
Bemidji, MN 56601

County Auditor
Courthouse
Bagley, MN 56621

Mary Williams
618 E. 22nd St.
Minneapolis, MN 55404

Anoka People's Alliance
for Change
7150 East River Road
Fridley, MN 55432

Vern Ingvalson
MN. Farm Bureau Fed.
P.O. 43370
St. Paul, MN 55164

William Brummer, Exec. Dir.
Tri-Valley Opportunity Council
114 S. Main
Crookston, MN 56716

Greg Mangold
Carver County Courthouse
Chaska, MN 55318

Bruno Aijala
3853 - 26th Ave. S.
Minneapolis, MN 55406

Rock County Auditor
P.O. Box 100
Luverne, MN 56156

Legislative Reference Library
Room 111
State Capitol

Clarence Sprague - Engineer
Green Giant Company
LeSueur, MN 56058

Jeff Muehler, Office Mgr.
203 N. 5th St.,P.O. Box 410
Breckenridge, MN 56520

Legislative Reference Library
Room 111
State Capitol

David S. Miller
2845 Quebec Ave. S.
St. Louis Park, MN 55426

Fred R. McComb
327 W. Minnehaha Pkwy.
Minneapolis, MN 55419

Legislative Reference Library
Room 111
State Capitol

Richard L. Ramberg, Exec. D
State Council for Handicapp
208 Metro Square Bldg.
St. Paul, MN 55101

Jean Dawson, Editor
The Minnesota Gov't. Report
B-12 Press Room
State Capitol Bldg.

Robert Lockyear
14900 - 61st St. North
Stillwater, MN 55082

Mrs. Judy Arel
Boise Cascade Corp.
P.O. Box 1310
International Falls, MN 566

Norman Campbell
R.R. 2
Welch, MN 55089

David Fadness
R.R. 1
Ruthton, MN 56170

Carl L. Carlson
7516 80th St. S.
Cottage Grove, MN 55016

3548 Holmes So.
Minneapolis, MN 55408

Arrowhead Reg. Dev. Comm.
200 Arrowhead Place
Duluth, MN 55802

Rt. 1 Cty.Rd. 2 & I35 South
Elko, MN 55020

Fred E. Isham, Jr.
Box 603
Nett Lake, MN 55772

Warren Schmidt
Independent District #78
Garden City, MN 56034

Catherine Sherwood
County Auditor
Box 496
Winona, MN 55987

Robert F. Stephens
25 Main Place
Council Bluffs, IA 51501

John H. Allers
7501 2nd Ave. South
Richfield, MN 55423

Joel Bennett
St. Paul Union Stockyards
South St. Paul, MN 55075

Paul N. Heckt, SAAG
1100 Bremer Bldg.
St. Paul, MN 55101

Graham R. Uzlik
County Auditor - Court House
Austin, MN 55912

James Jack
Dept. of Rec. & P.A.
Mankato State University
Mankato, MN 56001

Greg Fern
Setter, Leach & Lindstrom, Inc
1011 Nicollet Mall
Minneapolis, MN 55403

Wayne R. Carlson
126 No. Marshall Ave.
Litchfield, MN 55355

Agnes Engelbrecht
R. 4, Box 358
Alexandria, MN 56308

Earl H. Taylor, Clerk
City of Independence
1790 County Rd. 90
Maple Plain, MN 55359

Paul Farseth
State Welfare Dept.-Systems
Box 43170
St. Paul, MN 55164

Duluth Community Action Pro
206 W. 4th St.
Duluth, MN 55802

Jeremy Lane, Legal Aid Soc.
222 Grain Exchange Bldg.
323 Fourth Ave. S.
Minneapolis, MN 55415

Richard Holtan
County Auditor
Mantorville, MN 55955

David Loch, Exec. Dir.
Reg. 5 Reg. Develop. Comm.
611 Iowa Ave.
Staples, MN 56479

United Handicapped Federation
1475 W. Co. Rd. B.
St. Paul, MN 55113

Roberto M. Federigan
Bureau of National Affairs
1231-25th St. NW, Rm. 650
Washington, DC 20037

F. R. (Dick) Kadrie
657 Burr St.
St. Paul, MN 55101

Judson Kenyon, Exec. Dir.
Scott-Carver Econ. Council
6th & Oak
Carver, MN 55315

Charles F. Gosen
County Auditor
Box 808
Baudette, MN 56623

Robert De La Vega
Citizens League
84 S. 6th St.
Minneapolis, MN 55402

Gary Plotz
37 Washington Ave.
Hutchinson, MN 55350

James J. Ryan
2208 Central Trust Tower
Cincinnati, Ohio 45202

Crow Wing Concerned Citize
Council
1216 S. 6th St.
Brainerd, MN 56401

Philip J. Clausen
2307 Standish St.
St. Paul, MN 55108

Jeanne Freeberg
c/o Central Comm. Inc.
112 N. Oak
Owatonna, MN 55060

County Administration
Polk County Courthouse
Crookston, MN 56716

1435 Adams St.
Minneapolis, MN 55413

MPIRG
2412 University Ave. SE
Minneapolis, MN 55414

328 W. 6th St.
Minneapolis, MN 55102

Gordon Forbes, Counsel
Minn. Railroads Assn.
303 Hanover Bldg.,480 Cedar
St. Paul, MN 55101

James Miller, Sr. Attorney
MPIRG
2412 University Ave. SE
Minneapolis, MN 55414

Motor Vehicle Mfrs. Assn.
411 Main St. (215)
St. Paul, MN 55102

Charles Kroeger
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

John G. Horner
Minn. Multi Housing Assn.
3100 West Lake St.
Minneapolis, MN 55416

Douglas V.Moen
Houston County Auditor
Caledonia, MN 55921

Jay Myster
215 South Cascade St.
Fergus Falls, MN 56537

Thomas M. Polt, Attorney
McCarthy Bldg.
Eyota, MN 55934

Rod Danielson, Fin. Sec.
Local Union No. 87
411 Main St., Suite 210
St. Paul, MN 55102

Joyce Pesch, Exec. Dir.
West Central MN Comm.Action
Box 3026
Elbow Lake, MN 56531

Minn. Assn. of Cooperatives
55 Sherburne Ave.
St. Paul, MN 55103

Florence B. Hallberg, Clerk
City of Edina
4801 W. 50th St.
Edina, MN 55424

Halvor Lacher, Exec. Dir.
Semcac, Inc., Box 549
Rushford,,MN 55971

Minn. Masonry Institute
7851 Metro Pkwy., Suite 103
Minneapolis, MN 55420

Jayne Berg
New Connection Programs, In
73 Leech St.
St. Paul, MN 55102

Library
Briggs & Morgan
2200 1st Nat'l.Bank Bldg.
St. Paul, MN 55101

MCAA
239 City Hall
Minneapolis, MN 55415

Phillips Legislative Servic
459 Rice St.
St. Paul, MN 55103

James C. Shipman
Assn. of Minn. Counties
2305 Ford Pkwy.
St. Paul, MN 55118

David M. Grinb
Concordia College
Moorhead, MN 56560

City Desk
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

Tom Polansky
Renville County Court House
Olivia, MN 56277

Chuck Westin
800 Allworth Bldg.
Duluth, MN 55802

Luke Markve
Wright Co. C.A., P.O. Box 3
Waverly, MN 55390

NHRAC
3231 - 1st Ave. South
Minneapolis, MN 55408

Ray C. Anderson
MN-Dakotas Retail Hdwe. Assn.
3033 Excelsior Blvd.
Minneapolis, MN 55437

Bob Hagen
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

Director
Develop. Disab. Planning
200 Capitol Square Bldg
St. Paul, MN 55101

John G. Pidgeon, City Mgr.
2215 W. Old Shakopee Rd.
Bloomington, MN 55431

Edward J. Kranz, City Admin.
100 Sibley St.
Hastings, MN 55033

Paula C. Erdmann, ITI-CAP
315 St. Germain, Box 1205
St. Cloud, MN 56301

Clarence E. Schultz
McLeod County Auditor
Glencoe, MN 55336

United Steelworkers of America
609 Providence Bldg.
Duluth, MN 55802

G.C. Mastor & J.B. Proman
Minnesota Gas Co.
300 Peavey Bldg.
Minneapolis, MN 55402

Patricia N. Wright
Dayton Hudson Corp.
777 Nicollet Mall
Minneapolis, MN 55402

Wright County Comm. Action
Box 39
Waverly, MN 55390

Linda Ewen
Anoka County Fin. Services
Courthouse, 3rd Floor
Anoka, MN 55303

Dwight A. Smith, Senate Res.
460 State Office Bldg.
St. Paul, MN 55155

Center for Local Self-Reliance
3302 Chicago Ave. S.
Minneapolis, MN 55407

David Sollenberger, City Mgr.
City Hall
4th & Lafayette St.
Winona, MN 55987

Susan P. Robertson, Exec. Dir.
430 State Office Bldg.
St. Paul, MN 55155

Robert W. Larson
P.O. Box 1096
Minneapolis, MN 55440

Lakes & Pines CAC
Energy Programs Dept.
129 West Forest
Mora, MN 55051

Carol Carlson, Admin. Asst.
City of Champlin
1200 Highway 52
Champlin, MN 55316

Clarence Johnson
3615 - 37th Ave. S.
Minneapolis, MN 55406

Scott G. Larson
139 East 1st AVe.
Cambridge, MN 55008

James F. Andre, City Mgr.
2660 Civic Center Dr.
Roseville, MN 55113

P. D. Brick
200 W. Superior St., #811
Duluth, MN 55802

Dick Grabco, Energy Dir.
281 Main St., Box 157
Zumbrota, MN 55992

Bob Franklin, City Editor
Minneapolis, Tribune
425 Portland Ave.
Minneapolis, MN 55488

T.J. Manthey
Pickands Mather & Co.
1100 Superior Ave. NE
Cleveland, Ohio 44114

Craig A. Waldron
P.O. Box 3367
Mankato, MN 56001

MN. Gov. Eng. Council
722 - 91st Ave. NE
Blaine, MN 55434

Vern S. Tate
3 M Center - 220/2W
St. Paul, MN 55144

Norinne S. McCarthy
2356 Swan Drive
St. Paul, MN 55120

Elmer Warolin, Auditor-Treas.
Mille Lacs County
Milaca, MN 56353

Bob Fitzgerald
3007 Lyndale AVe. S.
Minneapolis, MN 55408

John Merli
Minn. Public Radio
400 Sibley St.
St. Paul, MN 55101

P. J. Thornton
Iron Range Building Trades
107 S. 15th Ave. West
Virginia, MN 55792

D. H. Staph
Western Community Action
203 W. Main, P.O. Box 246
Marshall, MN 56258

R. J. Barto, Plant Mgr.
Midland Glass Co., Inc.
P.O.Box 69
Shakopee, MN 55379

Rick E. Carter
Minn. Assn. Health Care Facil
2850 Metro Drive, suite 429
Minneapolis, MN 55420

Donald Pauley
2401 Hwy 10
Mounds View, MN 55102

1821 University Ave.
St. Paul, MN 55104

Norman County Courthouse
Ada, MN 56510

Owatonna Public Utilities
P.O. Box 800
Owatonna, MN 55060

Marvin B. Goldberg
875 Summit Ave.
St. Paul, MN 55105

Martha Ballou
3416 University AVe. SE
Minneapolis, MN 55414

Senate Commerce Committee
Room 309 State Capitol
St. Paul, MN 55155

James B. Sims
Suite 204 Metro Square
St. Paul, MN 55101

G. L. Kaziukewicz
Champion Packaging
P.O. Box 43260
St. Paul, MN 55164

DeWayne Rubedor
523 Sinclair Lewis Ave.
Sauk Centre, MN 56378

F. M. Christiansen
911 Capitol Square Bldg.
St. Paul, MN 55101

Gary L. Dickson, City Mgr.
City of Shoreview
4665 No. Victoria
Shoreview, MN 55112

Samuel W. Shult, City Clerk
106 E. 1st St.
Winthrop, MN 55396

Roald Revne, County Auditor
Watonwan County Courthouse
St. James, MN 56081

Michael M. McAlister
2623 Randolph NE
Minneapolis, MN 55418

Ed Shukle, City Mgr.
City of Benson
1411 Pacific Ave.
Benson, MN 56215

LeRoy A. Vos
2137 Burns Ave.
St. Paul, MN 55119

Gary N. Sudduth
MUL 411 E. 38th St.
Minneapolis, MN 55409

John W. Cook
310 E. 3rd St.
Park Rapids, MN 56470

Melroy Peterson
Lake County Auditor
Lake County Court House
Two Harbors, MN 55616

Otis A. Loose
Auditor - Admin.
Brown County - P.O. Box 248
New Ulm, MN 56073

Katie McWatt
401 Selby Ave.
St. Paul, MN 55102

John R. Langan
Courthouse
Benson, MN 56215

Bill Freeman
501 S. 1st St.
Montevideo, MN 56265

Steve Wiener
P.O. Box 78
Marshall, MN 56258

Eldon J. Spencer, Supervisor
Residential Utility Unit
MN Office of Consumer Serv.
St. Paul, MN 55101
(Metro Sq. Bldg.)

Herbert Anderson
418-8th St. S.
Virginia, MN 55792

Marty Gates
8701 - 36th AVe. N.
New Hope, MN 55427

Michael J. Ahern
2350 IDS Center
Minneapolis, MN 55402

City of St. Charles
1242 Whitewater Ave.
St. Charles, MN 55972

Wayne H. Olson
Olson, Gunn & Seran, Ltd.
315 Peavey Bldg.
Minneapolis, MN 55402

John E. Drawz
1100 First National Bank
Minneapolis, MN 55402

Allan W. Naslund, Auditor
Carlton County Courthouse
Carlton, MN 55718

John A. Knapp
1500 Midwest Plaza Bldg.
Minneapolis, MN 55402

Mankato Citizens Tel. Co.
221 E. Hickory St.
Mankato, MN 56001

4344 IDS Center
Minneapolis, MN 55402

Jeff Baill, Esq.
670 Twin City Federal Tower
Minneapolis, MN 55402

~~Mr. Leonard Erickson~~
~~Energy Engineer~~
~~Boise Cascade Corp.~~
~~International Falls, MN~~
~~56649~~

Izaak Walton League of Amer.
Minnesota Division
3255 Hennepin Ave., Suite 109
Minneapolis, MN 55408

BURT Associates
P.O. Box 14299
Columbus, Ohio 43214

Michael J. Ahern
2350 IDS Center
80 S. 8th St.
Minneapolis, MN 55402

Mr. Leonard Erickson
Energy Engineer, Paper Group
Boise Cascade Corp.
International Falls, MN 56649

Kay Bonner Nee
219 Logan Pkwy.
Fridley, MN 55432

Sam Ruhle, OAH
300 Summit Bank Bldg.
310 South Fourth Ave.
Minneapolis, MN 55415

City of Warren
126 West Johnson
Warren, MN 56762

Robert P. Sack
PO Box 21-307
Eagan, MN 5512

Jerry Neppel
E. Grand Forks Water & Light
Box 480
East Grand Forks, MN 56721

~~Frank~~

D. H. Thomsen
Burlington Northern, Inc.
Room 1200, 176 E. 5th St.
St. Paul, MN 55101

Frank Gaillard
8635 W. Point Douglas Dr.
Cottage Grove, MN 55016

Harold Steppuhn
P.O. Box 218
Princeton, MN 55371

W.J. Langlois x
Legislative Affairs
3M Center, 225-2N-6
St. Paul, MN 55144

Tom Hedges
3795 Pilot Knob Road
Eagan, MN 55122

Frank Rathbun, Manager
Peoples Natural Gas Company
25 Main Place
Council Bluffs, Iowa 51501

Frank Schleppenbach
Dept. of Water and Gas
414 West 1st Street
Duluth, MN 55802

Mark Hallgren
Suite 918
Midwest Plaza
Minneapolis, MN 55402

Richard Carlund
New York Mills Municipal Gas
Box H
New York Mills, MN 56567

Raymond E. O'Connell
Minnesota Gas Company
201 South 7th Street
Minneapolis, MN 55402

Craig R. Rapp
Clerk-Admin.
9201 N. Lexington Ave.
Circle Pines, MN 55014

David L. Meyer
Greeley Gas Company
1500 Grant St., Suite 400
Denver, Colorado 30203

Andrew C. Gibas
9 West Road
Circle Pines, MN 55014

Steven Gerhart
Iowa Electric Light and Pwr
P.O. Box 351
Cedar Rapids, Iowa 52406

Craig J. Pecker, Esq.
Peoples Natural Gas Co.
2223 Dodge Street
Omaha, Nebraska 68102

Steve Moses
24 Abbot Ave. SW
Madelia, MN 56062

Lloyd V. Crum

Racine, MN 55967

L. R. Knudson
1004 Cloquet Avenue
Cloquet, MN 55720

Hartley Medin
Western Gas Utilities
3900 Washington Ave. N
Minneapolis, MN 5541

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Deliquency Charges	DOCKET NO. G,E-999/R-83-99 AFFIDAVIT OF MAILING

Christopher K. Sandberg, being first duly sworn deposes and says,

That on the 14th day of March, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Public Utilities Commission for the purpose of receiving notice of the proposed adoption of rules by the Commission.

Christopher K. Sandberg
Legal Research Analyst

Subscribed and sworn to before
me this 14th day of March, 1983.

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES FEB. 8, 1990

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges	DOCKET NO. G,E-999/R-83-99 CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §14.14, subd. 1, that their names be place on file with and maintained by the Minnesota Public Utilities Commission is accurate and complete as of 8:00 A.M., this 14th day of March, 1983.

Christopher K. Sandberg
Legal Research Analyst

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

Docket No. G, E-999/R-83-99

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 14.14, subd. 1, that their names be placed on file with and maintained by the Minnesota Public Utilities Commission for the purpose of receiving notice of the proposed adoption of rules by this Commission is accurate and complete as of 1:00 P.M., this 5th day of July, 1983.



STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

Docket No. G, E-999/R-83-99

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 14.14, subd. 1, that their names be placed on file with and maintained by the Minnesota Public Utilities Commission for the purpose of receiving notice of the proposed adoption of rules by this Commission is accurate and complete as of 2:30 P.M., on the 7th day of September, 1983.

Joyce Y. Petsch

~~e.~~ d. Cows and bulls two years of age and over not offered for sale shall be backtagged or tested and found negative to brucellosis and if originating from other states negative to anaplasmosis ~~and tuberculosis~~ before removal from the stockyards.

3. Swine.

a. Swine sold for slaughter shall be identified to the herd of origin as required in 3 MCAR § 2.066 ~~Slaughter Cattle and Slaughter Swine Identification~~.

b. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:

(1) eartag number~~.~~;

(2) negative brucellosis buffered antigen (BBA) test for sows and boars six months of age and over~~.~~; and

(3) any other requirements of a state of destination.

c. ~~Pseudorabies test requirements for breeding swine.~~

~~(1)~~ Breeding swine six months of age and over originating in states other than Minnesota shall be tested for pseudorabies in accordance with 3 MCAR § 2.005 before removal to any Minnesota destination.

d. All swine for breeding and further feeding removed from public stockyards to points in Minnesota shall be quarantined for 30 days.

4. Sheep, goats, horses, mules, and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.

Minnesota Public Utilities Commission

Proposed Rules Governing Utility Delinquency Charges

Notice of and Order for Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 14.14, subd. 1, on Tuesday, September 13, 1983, in the Minnesota Public Utilities Commission (the Commission) Large Hearing Room, Seventh Floor, American Center Building, 150 E. Kellogg Blvd., St. Paul, Minnesota, commencing at 9:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

Authority for the adoption of these rules is contained in Minn. Stat. §§ 216A.05, 216B.03, and 216B.23.

The purpose of the proceeding is to determine the need for and reasonableness of the proposed rules as well as allowing the commission the opportunity to obtain additional public input on the form and content of the proposed rules.

The hearing will be held before hearing examiner Richard DeLong, Office of Administrative Hearings, 400 Summit Bank Building, 310 South 4th Ave., Minneapolis, Minnesota 55415, telephone (612) 341-7604, a hearing examiner appointed by the chief hearing examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, by themselves, or any other representative of their choice, if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted in accordance with the applicable laws relating to the commission, the Administrative Procedures Act (Minn. Stat. §§ 14.13-14.20), the Rules of the Office of Administrative Hearings (9 MCAR §§ 2.101-2.113), and the Rules of Practice of the Commission (PSC 500 through 521), to the extent that they have not been superseded by the Rules of the Office of Administrative Hearings.

The above-cited procedural rules are available for inspection at the Office of Administrative Hearings and the commission, or may be purchased from the State Register and Public Documents Division of the Department of Administration, 117 University Ave., St. Paul, Minnesota 55155, telephone (612) 297-3000.

The cited procedural rules provide generally for the procedural rights and obligations including the right to present evidence and cross examine witnesses, the right to purchase a record or transcript, and the obligation to meet certain time limits.

A copy of the proposed rules is attached to this notice and order.

Any interested person will be provided with one copy of the proposed rules without charge upon request to Randall D. Young, telephone number (612) 296-7526. Additional copies will be available at the hearings.

In the interest of efficiency, the commission requests that any person having comments on or objections to any part of the proposed rules submit their comments or objections to the Commission (attention Randall D. Young, Executive Secretary,

Docket No. G,E 999/R-83-99) and to Hearing Examiner DeLong as soon as possible and preferably prior to September 9, 1983. Any such comments or objections should:

state concisely and with particularity each portion of the proposed rules that the author supports or objects to;

state the basis for the author's support or objection; and

state any proposed modifications to the proposed rules, the author's reasons for those modifications, and the basis for those modifications.

Failure to submit such comments or objections prior to the hearing will not prohibit any person from submitting written or oral statements on the record at the hearing.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the commission's offices and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the commission anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the hearing examiner or by the commission in the determination of the above-cited matter. Persons attending the hearing should bring all factual information and evidence bearing on the case which they wish to have included in the record.

At the hearing, the commission will, through its staff's written and oral testimony, explain the proposed rules and the commission's reasons for proposing them. Copies of any written testimony and the statement of need and reasonableness will be available at the hearing.

Upon completion of the commission's presentation, interested persons will be given an opportunity to address questions to the commission's staff and to submit written and oral statements. It is the commission's intent and desire that after its staff has completed its presentation, comments and statements be received from interested persons before proceeding to questioning. An opportunity to question the commission's staff will be afforded all persons upon completion of the exchange of information and comments.

Interested persons who wish to make statements may do so by responding to the commission's presentation or by offering new information. In addition, interested persons may request the commission's staff to provide further explanations of any portion of the proposed rules if the persons are unclear about the commission's reasons. All persons making oral statements are subject to questioning by the commission's staff.

The commission will respond, in so far as possible, at the hearing to objections and questions presented at the hearing by interested persons. Interested persons may respond with oral or written statements to any new information presented by the commission. The commission may respond to objections or comments in writing after the close of the hearing.

Written material may be submitted and recorded in the hearing record for five working days after the conclusion of the public hearing. Such a comment period may be extended for a period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commission may not take any final action on the rules for a period of five working days. Any persons may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the commission. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or the commission (in the case of the commission's submission or resubmission to the Attorney General).

All persons are advised that the proposed rules may be modified as a result of the hearing process.

Questions concerning the content or form of the above-entitled rules should be directed to Randall D. Young, 780 American Center Bldg., 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone (612) 296-7526. Any questions concerning the conduct of the hearing should be directed to the assigned hearing examiner.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

ORDER

1. A public hearing shall be held on September 13, 1983, in the Large Hearing Room, Seventh Floor American Center Building, 150 E. Kellogg Blvd., St. Paul, Minnesota, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

2. This notice and order shall be mailed to all persons who have registered their names with the commission for the purpose of receiving notice of rulemaking.

3. This notice and order shall be published in the *State Register*.

July 5, 1983

Randall D. Young
Executive Secretary

Rules as Proposed (all new material)

4 MCAR § 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR §§ 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent account. "Delinquent account" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a utility's budget billing plan or a payment schedule under 4 MCAR § 3.0299 G., "delinquent account" means the lesser of the outstanding account balance or the scheduled monthly payment.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent account.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02.

4 MCAR § 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge which results from delinquent payment.

4 MCAR § 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's utility bill is not paid by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

B. Nonresidential customer. If a nonresidential customer's utility bill is not paid within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

4 MCAR § 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must consist of the following two components:

A. Finance fee. The utility may impose a finance fee no greater than 1½ percent per month on the delinquent account.

B. Collection fee. The utility may impose a collection fee no greater than $1.

4 MCAR § 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

SUPREME COURT

Decisions Filed Friday, July 8, 1983

Compiled by Wayne Tschimperle, Clerk

C7-83-415 State of Minnesota, Appellant, v. John Wallace Doyle. Olmsted County.

Where officer, in reckless disregard of the truth, omitted some material information and misrepresented other material information in his affidavit in support of search warrant application, trial court was justified in suppressing the evidence seized in the resulting search and in dismissing the prosecution.

Affirmed. Amdahl, C. J. Dissenting, Kelley, J., Todd, J., and Yetka, J.

C4-82-832 State of Minnesota v. Gary M. Nurmi, Appellant. Hennepin County.

Evidence of defendant's guilt of second-degree murder under the felony-murder rule was sufficient, and trial court did not prejudicially err in admitting photographs of the deceased victim or in refusing to submit the lesser-included offense of first-degree heat-of-passion manslaughter.

Affirmed. Kelley, J.

C5-82-1178 David A. VanLandschoot v. City of Mendota Heights, Dakota County, Minnesota, Appellant. Dakota County.

The action of a city council denying an application seeking to subdivide one lot in a subdivision into two lots and for variances to permit two residences to be built on the subdivided lot was not arbitrary, unreasonable or capricious.

Reversed. Kelley, J.

C8-82-1451 In Re Objections and Defenses to Real Property Taxes for the 1980 Assessment. Village Apartments, *et al.*, petitioners, Appellants, v. State of Minnesota and County of Ramsey. Ramsey County.

Even though the plaintiffs have made a settlement with defendants and judgment has been entered thereon, plaintiffs may, after entry of the judgment, appeal from an order of the trial court refusing to certify the case as a class action.

In the absence of the existence of a dispute for adjudication between the purported members of a class and the defendants, the requirement of "commonality" is absent when the issues between the members in the purported class and the defendants are predominantly individual in nature.

Affirmed. Kelley, J.

CX-82-219, C8-82-221 In the Matter of the Arbitration Proceeding Between Arrowhead Public Service Union (John McBride and Gary Meier, grievants), Appellant, v. City of Duluth and Arrowhead Public Service Union, Appellant, v. City of Duluth. St. Louis County.

In proceedings to vacate an arbitration award on the ground that the arbitrator exceeded his powers, the court is not bound by the arbitrator's determination of arbitrability: the issue is to be resolved by an independent judicial determination.

The relinquishment by a public employer of the right to determine matters of inherent managerial policy, which a public employer is not required to negotiate, must be expressed in a labor contract in clear and unmistakeable language.

Department of Public Safety
Driver and Vehicle Services

Notice of Appointment of Deputy Registrar

Notice is hereby given that a deputy motor vehicle registrar position is vacant in Austin, Minnesota. This vacancy will remain open until October 3, 1983, after which time the Commissioner of Public Safety will appoint a deputy registrar. Inquiries may be directed to:

Department of Public Safety
Driver and Vehicle Services Division
Room 161 Transportation Building
St. Paul, Minnesota 55155

The person who is appointed to this position must show that the following criteria will be met:

1. Office space of at least 400 square feet for exclusive processing of applications.
2. A safe or vault, a secure storage area, outdoor sign, and accessibility to handicapped.
3. Must post a bond.
4. May not be operated in conjunction with motor vehicle insurance or sales of cars.

Paul J. Tschida
Commissioner of Public Safety

Minnesota Public Utilities Commission

Proposed Rules Governing Utility Delinquency Charges

Amended Notice and Order for Hearing

Notice is hereby given that the public hearing in this matter originally scheduled for Tuesday, September 13, 1983 has been rescheduled. A public hearing will now be held pursuant to Minn. Stat. § 14.14, subd. 1, on Thursday, October 20, 1983, in the U.S. Courthouse, 316 North Robert Street, Courtroom 588, St. Paul, Minnesota 55101, commencing at 9:30 a.m. and continuing until all persons or representatives of associations or other interest groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

In all other respects the Notice and Order for Hearing dated July 5, 1983, and published in the *State Register* on July 18, 1983 at 8 S.R. 82 to 8 S.R. 84, is unchanged.

Order

1. A public hearing shall be held on October 20, 1983 in the U.S. Courthouse, 316 North Robert Street, Courtroom 588, St. Paul, Minnesota, 55101, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

2. This amended notice and order shall be mailed to all persons who have registered their names with the commission for the purpose of receiving notice of rulemaking.

3. This amended notice and order shall be published in the *State Register*.

September 7, 1983

Randall D. Young
Executive Secretary

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is October 11, 1983.

PUC-84-033-BC
G,E-999/R-83-99

RECEIVED
FEB 15 1984
MINNESOTA PUBLIC
UTILITIES COMMISSION

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Public Utilities Commission
Governing Utility Deliquency Charges.

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 20, 1983 before Bruce D. Campbell, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with the rule-making provisions of Minn. Stat. Ch. 14 (1982); and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 14.50, was issued to the Public Utilities Commission and;

WHEREAS, the Public Utilities Commission has now determined to adopt rules; and

WHEREAS, the Public Utilities Commission has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 14.16, 14.51, and 9 MCAR § 2.111; 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 Utilities Commission has cured the defects in the rule as required.

NOW, THEREFORE, upon receipt of this Order, the Public Utilities Commission has the responsibility of submitting the complete hearing record and the rules as adopted by the Public Utilities Commission to the Attorney General and to publish in the State Register if approved by the Attorney General.

Dated: February 14th, 1984.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

PUC-84-033-BC

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

DEC 1 0 1993
MINNESOTA PUBLIC UTILITIES COMMISSION

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Deliquency Charges.

REPORT OF THE CHIEF HEARING EXAMINER

The above-entitled matter came on for review by the Chief Hearing Examiner pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4 (1982), as amended by Minn. Laws 1983, Ch. 210, §§ 6 and 7, which provide:

> Subd. 3. Finding of substantial change. If the [hearing examiner's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.13 to 14.18 it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, the chief hearing examiner shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief hearing examiner determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission's receipt of the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Hearing Examiner hereby approves the Report of the Hearing Examiner in all respects.

In order to correct the defects enumerated by the Hearing Examiner, the agency shall either take the action recommended by the Hearing Examiner or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Hearing Examiner, it shall, prior to submitting the rules to the Attorney General for review, submit to the Chief Hearing Examiner a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final

adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Hearing Examiner will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Hearing Examiner, it shall also, prior to submitting the rule to the Attorney General, submit the complete record to the Chief Hearing Examiner for a review in regard to substantial changes.

Dated: December 16, 1983.

DUANE R. HARVES
Chief Hearing Examiner

PUC-84-033-BC

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Deliquency Charges.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before State Hearing Examiner Bruce D. Campbell on October 20, 1983, at 9:30 a.m., in the Federal Courthouse, St. Paul, Minnesota 55101.

This Report is part of the rule hearing procedure required by Minn. Stat. §§ 14.01-14.28 (1982), to determine whether the proposed rules governing utility deliquency charges should be adopted by the Minnesota Public Utilities Commission (Commission). Members of the Commission panel appearing at the hearing included: Janet F. Gonzalez, Rate Analyst and Rosellen Condon, Legal Research Analyst, for the Minnesota Public Utilities Commission; and James T. Jarvis, Special Assistant Attorney General, assigned to the Commission. No witness outside the Agency was solicited to appear on behalf of the Commission.

Twenty people signed the Hearing Register at the hearing and nine persons gave oral comments. The Commission submitted 12 written exhibits, PUC Exhibits 1-12. Twenty-eight timely filed written comments, marked as Public Exhibits 1-28, were received from members of the public. One late-filed comment was received from Ebenezer Ridges. Since that comment was received after the close of the record, the Hearing Examiner has not considered the comment of Ebenezer Ridges.

The Chief Hearing Examiner, acting pursuant to Minn. Stat. § 14.15, subd. 2 (1982), has extended the time for the filing of this Report of the Hearing Examiner, and this Report was issued by the Hearing Examiner within the period of extension so granted.

The Public Utilities Commission must wait at least five working days before taking any final action on the rules; during that period, this Report must be available to all interested persons upon request.

The Commission must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, this Report has been submitted to the Chief Hearing Examiner for his approval. If the Chief Hearing Examiner approves the findings of this Report, he will advise the Commission of actions which will correct the defects and the Commission may not adopt the rule until the Chief Hearing Examiner determines that the defects have been corrected. However, in those instances where the Chief Hearing Examiner identifies defects which relate to the issues of need or reasonableness, the Commission may either adopt the Hearing Examiner's recommendations to cure the defects

or, in the alternative, if the Commission does not elect to adopt the recommendations, it may submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment. Provisions relating to this submission to the Commission may be found in Minn. Stat. § 14.15, subd. 4 (1982), as amended by Minn. Laws 1983, Ch. 210, § 7.

If the Commission elects to adopt the recommendations of the Hearing Examiner and makes no other changes and the Chief Hearing Examiner determines that the defects have been corrected, then the Commission shall submit the rule to the Attorney General for review of form and legality. If the Commission makes changes in the rule other than those recommended by the Hearing Examiner, then it shall submit the rule, with the complete record, to the Chief Hearing Examiner for a review of the changes before adopting it and submitting it to the Attorney General. Procedures relating to this subsequent review by the Chief Hearing Examiner are set forth in Minn. Stat. § 14.16 (1982).

When the Commission submits the rule to the Attorney General, it shall give notice on the day of submission to all persons who requested that they be informed of the submission to the Attorney General.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On July 1,1983, the Commission filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.

(b) The Order for Hearing.

(c) The Notice of Hearing proposed to be issued.

(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On September 19, 1983, a Notice of Hearing and a copy of the proposed rules were published at 8 State Register 508.

3. On September 7, 1983, the Commission mailed the Notice of Hearing to all persons and associations who had registered their names with the Commission for the purpose of receiving such notice.

4. On September 22, 1983, the Commission filed the following documents with the Hearing Examiner:

(a) The Notice of Hearing as mailed.

(b) The Agency's certification that its mailing list was accurate and complete.

(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.

(d) The Statement of Need and Reasonableness.

(e) The names of personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

(f) A copy of the State Register containing the proposed rules.

(g) The Petition requesting a rule hearing.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing, which period exceeded 25 days.

5. Written comments were received by the Hearing Examiner through November 7, 1983, the period having been extended by order of the Hearing Examiner to 17 calendar days following the hearing. On November 7, 1983, the final date for the receipt of comments by the Hearing Examiner, the Commission filed with the Hearing Examiner revised proposed rules and a statement of additional comments on behalf of the Commission. PUC. Ex. 12. Revised rules may be proposed by the Agency if they do not include a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

6. On November 12, 1983, the Commision filed with the Hearing Examiner a Statement of Acceptance or Rejection of Comments, as authorized by Laws 1983, C. 210 § 5. On November 12, 1983, the record herein finally closed for all purposes.

7. The Commission did not include in its Notice of Hearing or Statement of Need and Reasonableness the fiscal note prescribed by Minn. Stat. § 14.11 (1982). The Hearing Examiner finds that inclusion of such a fiscal note, relating to the financial impact of the rules on governmental units, is unnecessary. Although governmental units are utility customers who may be subject to the maximum late payment charges specified in the rules, the rules do not impose a late payment charge and, in fact, provide a measure of protection to the utility's customers, including units of government. No utility is required by the rules to impose a late payment charge on units of government. If it chooses to do so, the rules may afford customers, including governmental customers, a ceiling on the charge that may be approved by the Commission as otherwise cost justified. See Findings 11, 34 and 44, infra.

Nature of the Proposed Rules

8. The above-captioned rules are newly proposed rules of the Commission designed to regulate maximum charges that a Minnesota utility, as defined in Minn. Stat. § 216B.02 (1982), as modified by Minn. Stat. §§ 216B.025 and 216B.026 (1982), may charge as a deliquency fee for late payments. Prior to the proposal of these rules, each utility filed a tariff relating to deliquency charges for Commission approval. A great disparity, both in the amount of such late payment charges and the conditions for their imposition, resulted from the practice of individual tariff approval. The Commission proposed the above-captioned rules to introduce a maximum rate that might be charged by a utility as a late payment charge and certain uniform conditions on their imposition. The rules contain provisions relating to definitions, billing terms, determinations of deliquency, requirements for imposing a late payment charge, a maximum amount of a late payment charge and a method for crediting payments.

Statutory Authority

9. The Commission relies upon Minn. Stat. §§ 216A.05, 216B.03, and 216B.23 (1982), as providing statutory authority for adoption of the proposed rules. PUC Ex. 12, p. 1. The Hearing Examiner does not find that the statutory authority cited upon by the Commission provides authority to adopt the proposed rules. Minn. Stat. § 216A.05 (1982) merely provides that the Commission may adopt such rules as it may be authorized so to do by the Legislature. As such, the provision is not a general grant of rulemaking authority. Minn. Stat. §§ 216B.03 and 216B.23 (1982), relate to the Commission determining reasonable rates. Neither section specifically, or by necessary implication, authorizes the Commission to adopt rules to determine reasonable rates. The Hearing Examiner, however, finds that Minn. Stat. § 216B.08 (1982), although not relied upon by the Commission, is a general grant of authority for the Commission to adopt rules to implement its powers and duties under Minn. Stat. C. 216B (1982). While the Hearing Examiner does not conclude that Minn. Stat. § 216B.08 (1982), would authorize the Commission to dispense with contested case or investigatory proceedings to fix rates for an individual utility, for the reasons hereinafter discussed, the determination of a maximum rate with the ability to recoup any revenue deficiency resulting therefrom in a general rate proceeding, is within the statutory grant of rulemaking authority. See Findings 11 and 34, infra. The Hearing Examiner, therefore, concludes that the Commission has statutory authority to adopt the proposed rules. Minn. Stat. § 216B.08 (1982).

Reasonableness of Fixing Maximum Rate by Rule

10. The Commission states that it is reasonable to adopt, uniformily, a maximum rate for a late payment charge as well as certain uniform practices regarding its imposition. Statement of Need and Reasonableness (Statement of Need), pp. 4-5; PUC Ex. 12, p. 1. It is asserted that individual utility tariffs regarding late payment charges have resulted in trememdous disparity both in the maximum amount charged and the conditions on the imposition of such charge. The Commission believes that public policy requires that customers face similar conditions of service, regardless of their geographical location, whenever possible. Statement of Need, p. 4. Further, the Commission concludes that the relative costs of providing utility service are sufficiently uniform so that a maximum rate can be established that will not unduly restrict utilities from recovering the costs imposed by late-paying customers while preventing wide disparities between utility practices. PUC Ex. 12, p. 1. Ottertail Power Company asserts that the Commission has failed to establish the reasonableness of proceeding with the degree of uniformity contained in the rules. Pub. Ex. 20; Pub. Ex. 25. Generally, Ottertail Power Company states that the Commission has failed to establish relative uniformity among utilities in the costs associated with late-paying customers. In the absence of such supporting data, Ottertail Power Company concludes that each utility should be entitled to recover fully from late-paying customers the costs imposed by such late payment. The only feasible method for such full

reimbursement is to allow each utility to file a tariff relating to late payment charges that it can demonstrate fully compensates it for its individual costs generated by late-paying customers. While not arguing a lack of statutory authority, Ottertail Power Company asserts that the Commission has failed to demonstrate the reasonableness of adopting any proposed rules regarding late payment charges. It asserts, rather, that the present practice of individual tariffs with no maximum amounts determined by rule is preferable and may, in fact, be legally required.

11. The Hearing Examiner does not accept Ottertail Power Company's broad attack on the reasonableness of the proposed rules. Initially, the Hearing Examiner notes that the record contains no cost data with respect to late-paying customers, except that offered by Ottertail Power Company. Pub. Ex. 25. The Commission states that the costs imposed by late-paying customers are sufficiently similar to support the fixing by rule of a maximum rate for such charges. Pub. Ex. 12, p. 1; Statement of Need, pp. 4-5. Apparently, its conclusion is based upon the agency expertise and experience resulting from a number of contested case rate proceedings before it over the years. Such agency expertise and experience is a proper basis of rate making. St. Paul Area Chamber of Commerce v. Public Service Commission, 312 Minn. 250, 251 N.W.2d 350 (1977). Moreover, a relative similarity of costs among entities engaged in similar pursuits with congruent rates of return on equity for the same services comports with common experience which, itself, is an appropriate basis for ratemaking. St. Paul Area Chamber of Commerce v. Public Service Commission, supra. Finally, the wide disparity in practice resulting from the absence of a maximum rate and uniform conditions was documented by the Commission. Statement of Need, pp. 4-5. The Commission has met its statutory burden to advance an affirmative presentation of facts to support the need and reasonableness of the proposed rules. Minn. Stat. § 14.14, subd. 2 (1982). Although specifically invited to do so by the Hearing Examiner, Ottertail Power Company did not submit general studies to which it had access to support its assertion about a significant variance in costs imposed by late-paying customers to individual utilities.

Even if the Hearing Examiner were to accept the assertion of Ottertail Power Company, that the maximum rates authorized by the Commission in the proposed rules will not fully compensate each individual utility for the cost of late-paying customers, however, there is no reason in either policy or law to reject the proposed rules.

When the Commission allocates rates among customers, as distinguished from determining a revenue deficiency, it acts in a legislative capacity. Hibbing Taconite Co. v. Minnesota Public Service Commission, 302 N.W.2d 5 (1980); St. Paul Area Chamber of Commerce v. Public Service Commission, supra. In determining a just and reasonable rate, in its legislative capacity, the Commission may consider a variety of factors including inter alia ability to pay, ability to pass on the cost and cost of service. St. Paul Area Chamber of Commerce v. Public Service Commission, supra.

That cost of service is not the sole criteria of the propriety of an individual rate is clear from the reading of any modern decision of the Commission. The Commission has often departed from exact cost considerations to

mitigate the impact of true cost rates, maintained certain charges below cost rates to achieve a socially desirable purposes and balanced the cost imposed by a particular class of customers against competing considerations. The Commission, for example, while ordering a general coin telephone call rate of 25¢ per call, has authorized a 10¢ rate for coin telephones in certain locations. In re, Northwestern Bell Telephone Company, P-421/GR-80-911, Dec. 29, 1981, pp. 64-65. Utilities have been denied the authority to terminate services during the winter months. Examples could be multiplied. Departures from true cost rates have been judicially sanctioned. See e.g., St. Paul Area Chamber of Commerce v. Public Service Commission, supra.

If the implicit assumption of Ottertail Power Company were true, there would be no need for the rate design portion of general rate proceedings. The cost of a specific service could be minutely calculated and mechanically translated into a rate without a consideration of competing factors. That such is not the practice in actuality and law is clear.

The Hearing Examiner does not conclude that cost is irrelevant or that the Commission has free license in rate design issues. While cost of service is an important factor to be considered by the Commission in determining the allocation of rates among customers, it may consider noncost factors inherent in a proper balancing of public policy and private need. Permian Basin Area Rate Cases, 390 U.S. 747, 767, 88 S.Ct. 1344, 1360, 20 L.Ed. 312, 336 (1968); St. Paul Area Chamber of Commerce v. Minnesota Public Service Commission, 312 Minn. 250, 261, 251 N.W.2d 350, 358 (1977). This determination must result in rates which are "reasonable and just" and rates "shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of consumers." Minn. Stat. § 216B.03 (1982). A customer or class of customers who consider that, as a result of departures from cost-based rates, the resultant rate is arbitrary and unreasonable must prove that contention by clear and convincing evidence. Hibbing Taconite Co. v. Minnesota Public Service Commission, supra.

If departures from cost-based rates may be approved in a contested case proceeding, there is no reason why certain rate design issues may not be addressed in a rulemaking proceeding. In fact, considerations of uniformity appear to favor treating certain rate design issues involving social policy in generic proceedings rather than suffer the disparity of practice resulting from individual attempts at application in contested case proceedings. Again, it must be noted that the rules do not deal with the determination of a revenue deficiency but only with a maximum rate that may be charged to a particular class of customers under certain uniform conditions.

While it is not necessary, for purposes of this rulemaking proceeding, to determine the exact legal paramaters of the Commission's ability to prescribe an allocation of customer charges by rule rather than by a contested case proceeding, the Commisson has established a reasonable basis in public policy for proceeding through the adoption of a rule. The utilities have not established that the maximum rate authorized by the Commission will result in a maximum rate which is unreasonable or unduly discriminatory to rebut the showing of need and reasonableness by the Commission. St. Paul Chamber of Commerce v. Minnesota Public Service Commission, supra; Hibbing Taconite Co. v. Minnesota Public Service Commission, supra.

The Hearing Examiner does not conclude that the only reasonable method of dealing with late payment charges is by rule. The Commission has the alternatives of following its current practice of approving individual utility tariffs or proceeding by rule to impose uniform practices and maximum charges. Either approach is clearly within its statutory authority and has supporting positive benefits. The Commission has made the public policy choice to proceed by rule. The Hearing Examiner is required by law to determine whether the Commission has demonstrated, by an affirmative presentation of facts, the need for and the reasonableness of proceeding by rule.

Whether a rule is reasonable is a legal question which has been long recognized in Minnesota law. To be valid, a rule must be reasonable. Juster Bros. v. Christgau, 7 N.W.2d 501, 507 (Minn. 1943); Lee v. Delmont, 36 N.W.2d 530, 539 (Minn. 1949). An unreasonable rule has been equated with an arbitrary rule. Hurley v. Chaffe, 43 N.W.2d 281, 284 (Minn. 1950); In Re Application of Bryon N. Hansen, 275 N.W.2d 790 (Minn. 1978). A rule is not unreasonable simply because an equally reason alternative exists. Federal Security Administrator v. Quaker Oats Company, 318 U.S. 218, 233 (1943).

A reviewing authority will not substitute its judgment for that of an administrative agency in promulgating rules unless that agency's action disregards the facts and circumstances and can, therefore, be said to be arbitrary and unreasoning. Neither has the legislature invited or authorized the Hearing Examiner to make a judgment as to what is the wisest policy or course of action to follow in the adoption of a rule. The question to be decided in determining reasonableness is whether or not a rational person could make the same choice made by the agency from among possible alternatives in order to accomplish the legislative directive.

Since the method of proceeding by rule finds support in public policy and practical argument, is within the Commission's statutory authority, and has not been demonstrated to result in arbitrary or capricious adverse consequences, the Hearing Examiner rejects the argument of Ottertail Power Company. Maximum rates and uniform practices for the imposition of late payment charges are appropriate subjects for a rulemaking proceeding, well within the Commission's delegated authority.

4 MCAR § 3.0317 - Definitions

12. § 3.0317 A is a scope section indicating the application of the defined terms. The scope section is necessary and reasonable to determine the application of the definitions.

13. § 3.0317 B is a definition of the term "deliquent amount". A definition of the term is necessary to restrict the portion of a customer's account against which a late payment charge may be applied. The definition is reasonable in that it excludes from the definition of "deliquent amount" any portion of a bill representing a non-utility service, which is unregulated by the Commission. The definition reasonably provides that for a residential customer on a budget billing plan or a payment schedule, the deliquent amount is the lesser of the outstanding account balance or the outstanding scheduled payments. The limitation is reasonable since the monthly installment will

usually be smaller and it would be unreasonable to apply a late payment charge against the total outstanding balance when the customer and the utility have agreed that only the installment balance is due each month.

14. § 3.0317 B was amended by the Commission in response to public comments as follows: the word "amount" was substituted for the word "account" where it appeared; the specific reference to the Cold Weather Rule Payment Plan was deleted so as to broaden the phrase "payment schedule" which limits the term "deliquent amount"; and the phrase "outstanding scheduled payments" was substituted for the phrase "scheduled monthly payments". Each of the changes, as previously discussed, was made in response to public comment received at the hearings herein. The purpose of the amendments to § 3.0317 B is to clarify the application of the rule and expand the equity of its application, especially as regards those under payment schedules other than the Cold Weather Rule schedule.

The Hearing Examiner finds that the amendments to § 3.0317 B are clarifying amendments to achieve equity which are not substantial changes within the meaning of Minn. Stat. § 14.05, subd. 4 (1982) and 9 MCAR § 2.111. The amendments to § 3.0317 B do not result in a rule which is fundamentally different, impose burdens on persons who would not have participated in the hearing herein as a consequence of a lack of notice or go to a new subject matter of significant substantive affect. Since the changes were made in response to comments received at the public hearing held herein, they are a logical outgrowth of the hearing process and, as such, do not result in a statutorily prohibited substantial change. American Iron and Steel Institue v. EPA, 568 F.2d 284, 293 (3d Cir. 1977); International Harvester Co. v. Ruckelshaus, 478 F.2d 615, 632 (D.C. Cir. 1973); South Terminal Corp. v. EPA, 504 F.2d 646, 659 (1st Cir. 1974).

15. § 3.0317 C defines the term "late payment charge" as the allowable charge the utility may impose upon a deliquent amount. A definition of the term "late payment charge" is necessary to establish the basic definition of the content of the rule. It is reasonable to clearly state that a late payment charge may only be imposed upon a deliquent amount because that is not only logical but also the primary focus of the rules.

16. § 3.0317 C, as finally proposed, substitutes the word "amount" for the word "account". This is a clarifying amendment in response to public comment which, for the reasons stated in Finding 14, supra, does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982), and 9 MCAR § 2.111.

17. § 3.0317 D defines a utility in accordance with the statutory definition. It is necessary to adopt a definition of utility to indicate those entities that are bound by the rules. The rule is reasonable in that it specifies only those utilities over which the Commission has general regulatory jurisdiction. Finally, the rule is reasonable because it comports with the statutory definition of the term.

18. § 3.0317 D was modified to include within the definition of "utility" those non-investor owned utilities over which the Commission has general regulatory authority. Since the purpose of the rule was to foster uniformity and equity in the practices of the utilities over which the Commission has

general regulatory authority, it is both necessary and reasonable to include within the definition those non-investor owned utilities over which the Commission does have general rate regulation authority. For the reasons stated in Finding 14, supra, the amendments to § 3.0317 D do not constitue substantial changes within the meaning of Minn. Stat. § 14.05, subd. 4 (1982) and 9 MCAR § 2.111.

19. The Minnesota Public Interest Researach Group (MPIRG) asserts that the definition of the term "utility" is unreasonable in that it excludes from that definition non-investor owned utilities except as they are subject to rate regulation by the Commission. Pub. Ex. 2. MPIRG posits a lack of uniformity among the non-investor owned utilities as to the imposition of late payment charges in respect to both conditions for imposition and amounts charged. This inequity, it is asserted, should be the subject of the rule. MPIRG argues that late payment charges are a practice rather than a rate and, as a practice, are subject to regulatory oversight by the Commission. The Hearing Examiner, in accordance with a recent decision of the Attorney General, concludes that late payment charges are, in fact, a rate and, as such, are not subject to the rulemaking authority of the Commission. See, Op. Atty. Gen. 624 C-4, Oct. 13, 1980. Support for that conclusion may be found in dicta contained in Taylor v. Beltrami Electric Co-op., Inc., 319 N.W.2d 52, 55 (Minn. 1982). Since the Hearing Examiner concludes that the maximum amount to be charged a customer for a late payment charge fee is a rate and the Commission has no general regulatory authority over the rates of non-investor owned utilities, inclusion of such rates of those utilities would be beyond the statutory authority of the Commission.

4 MCAR § 3.0318 - Billing Terms

20. § 3.0318 specifies that any late payment charge imposed on a customer must be so denominated on that customer's bill. The section further prohibits the use of any synonym or alternative phrase other than late payment charge. § 3.0318 has not been revised in the proposed rules and was not the subject of any public comment. This section is necessary to standardize the terms used to describe charges that have historically functioned as late payment charges. Since these rules establish a uniform method for computing and billing late payment charges, it is reasonable to identify clearly in the public mind the subject of a charge to alert the public to the fact that the charge may be imposed for failure to pay within the prescribed period of time. Uniform language avoids customer confusion.

4 MCAR § 3.0319 - Determination of Deliquency

21. § 3.0319 establishes two measures for determining whether a customer's bill is deliquent. As such, it distinquishes between "residential customers" and "non-residential customers" and fixes a separate grace period for each class of customers.

22. § 3.0319 A specifies a method for calculating when a late payment charge may be imposed upon a residential customer. It provides that the residential customer's bill payment must be received by the utility by the next scheduled billing date which must be not less than 25 days from the current billing date and that the current billing date must be no more than three working days before the date of mailing of the bill by the utility. The last sentence of § 3.0319 A was amended in the proposed rule to allow a utility to print a due date on the bill which is not more than five days before the next scheduled billing date. This section is necessary to establish a uniform method of determining when a customer should have a late payment charge levied. It is reasonable to create two measures of deliquency, because residential and non-residential customers have different sources of income and ability to respond to utility billings.

§ 3.0319 A was the subject of 14 individual comments by public participants. The utilities uniformly opined that the grace period was too long and did not afford the utility an opportunity to process payments received at the end of the grace period. It was asserted that customer confusion would result from allowing a period of grace and only three days for the utility to process the payment. No public commentator argued that the period of grace was too short. In response to public comments, the Commission authorized a utility, in effect, additional bill processing time through the addition of the last sentence of § 3.0319 A. In support of the grace period established, the Commission states that the sources of income of a residential customer may be monthly and that the payment may be difficult for a residential customer to make if a shorter minimum grace period were authorized. Ottertail Power Company asserts that the grace period, which it characterizes as at least 55 days, does not comport with current commercial practice and, as a consequence, is unreasonable. Pub. Ex. 25. Initially, it should be noted that service is being provided until the end of the billing cycle. A portion of the energy is used on the first day of the cycle and a portion is also used on the last day of the cycle. Under such circumstances, in the absence of daily metering and billing, it is reasonable to conclude that the amount is owed when the billing cycle closes. Hence, even the unamended version of the rule proposed by the Commission could more accurately be characterized as a 25 day grace period. Payment within 30 days to avoid additional charges, including interest, is common in commercial circles. The legitimate interest of the utilities in the timely processing of bills has been reasonably accommodated by the addition of the last sentence of § 3.0319 A.

23. The Hearing Examiner finds that the Commission has established a minimum grace period which is well within a rule of reason reflecting a proper exercise of its discretion. See Finding 11, supra.

24. Although the Hearing Examiner finds that the minimum grace period established in § 3.0319 A is both necessary and reasonable, the section contains the operative term "residential customer". There is no definition in § 3.0317 of the term "residential customer". A definition of the term is important because the grace period is different for the two classes of customers.

There does not appear to be a universal definition of the term "residential customer". The term may be defined in the individual tariff of the utility, differentiating between residential and non-residential classes of service. Even that assumption, however, is not universal. See Pub. Ex. 7. Moreover, the definition of the term could well vary in differing tariff filings. In the absence of a definition of the term "residential customer" either the utility in its filing of a tariff, or the Commission in its approval of that implementing tariff, has relative discretion in the application of the proposed rules. Nor is there a single universally accepted definition of the term "residential customer" in industry or regulatory practice. In the Cold Weather Rules, for example, the term is defined to include certain customers which, in a tariff filing, would normally be considered to be receiving non-residential or commercial service. See Pub. Ex. 11. Important differences in treatment result from the definition of the term "residential customer", as distinguished from "non-residential customer" and there does not appear to be a uniform definition of the term.

The Hearing Examiner finds that § 3.0319 A, which contains no definition of the operative term "residential customer", is illegal in that it authorizes the Commission to approve a distinct definition of the operative term in a later tariff filing outside of the rulemaking process. Such discretion has uniformly been considered by the Office of Administrative Hearings and the Office of the Attorney General as resulting in an illegal rule within the meaning of Minn. Stat. § 14.01, subd. 4 (1982), because of a prohibited lack of specificity.

25. To correct the defect, the Commission must include in § 3.0319 A, or in the general definitional section, § 3.0317, a definition of the term "residential customer". Such a definition must find support in the record or common understanding and must not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

26. The amendments to § 3.0319 A in the rule as finally proposed do not constitute substantial changes within the meaning of Minn. Stat. § 14.05, subd. 2 (1982), and 9 MCAR § 2.111. See Finding 14, supra.

27. § 3.0319 B provides a non-residential customer with a minimum 15 day grace period for payment from the current billing date. No public witness testified that the grace period provided was unreasonable, except as applied to governmental units. Pub. Ex. 26, p. 2; Pub. Ex. 3. Since it is reasonable to distinguish between residential and non-residential customers, it is necessary to establish a separate grace period for non-residential customers. It is reasonable to provide a shorter minimum grace period for non-residential customers because of the usually larger consumption of such customers and the relative absence of the income-timing considerations found in the case of residential customers. The minimum grace period of 15 days for payment by non-residential customers is within the range of reason committed to Commission direction. See Finding 11, supra.

28. § 3.0319 B in the rules as finally proposed substitutes the phrase "received by the utility" for the word "paid". In the absence of such clarifying language, a bill could be considered paid when mailed. Given postal service delays, the utility might not have time to credit the payment before

the imposition of a late payment charge. Hence, to clarify the intention of the Commission and to avoid customer confusion resulting from inadequate time to post payments, the amendment to § 3.0319 B is both necessary and reasonable.

29. Although § 3.0319 B does not contain a definition of the term "non-residential customer", the Hearing Examiner does not find the provision to be illegal. The term "non-residential customer" is entirely a residual category. If the term "residential customer" is defined in the rules, no definition of the term "non-residential customer" will be necessary. See Findings 24-25, supra. For purposes of clarity, however, it would be advisable to include in the rule a specific statement about the residual nature of the term with a cross-reference to the definition of the term "residential customer". Such a clarifying provision would not constitute a substantial change within the meaning of Minn. Stat § 14.05, subd. 2 (1982) and 9 MCAR § 2.111. See Finding 14, supra.

30. For the reasons stated in Finding 14, supra, the amendment to § 3.0319 B does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

31. Several governmental commentators suggested that the minimum 15 day grace period is inadequate as applied to them. Pub. Ex. 3; Pub. Ex. 26, p. 2. The City of St. Paul, for example, states that it receives many separate bills, rather than a single bill, from the utility. The city argues that its internal processing, which requires a commitment of funds by the governing authority, cannot be reasonably completed within the minimum 15 day grace period. The City of St. Paul asserts that even the most expeditious payment that it can make under current internal procedures will result in numerous late payment charges. Although not specifically so stated, it is implied that § 3.0319 B, as applied to governmental units, is unreasonable. The Hearing Examiner notes that the Commission, in recommending a shorter payment period for non-residential customers, relies on the absence of income-timing considerations applicable to such customers. In the case of a governmental unit, however, the City of St. Paul strongly argues that such income--payment problems do exist for it, given the multiplicity of utility bills and its current internal procedures. The Hearing Examiner does not find that the absence of a special accommodation to governmental units renders § 3.0319 B necessarily unreasonable. The rule does not require any utility to impose a late payment charge on a governmental unit. It merely provides a minimum grace period for such payments. A utility may either not impose a late payment fee on a governmental unit or, to accommodate their internal procedures, may afford them a longer grace period. The City of Winona and the City of St. Paul each indicate that their current utility does not charge them a late payment fee. There is nothing in the proposed rules that would mandate a deviation from existing practice. Finally, the City of St. Paul has not demonstrated that it could not accommodate its internal procedures for bill payment to comply with the minimum grace period afforded a non-residential customer. The Commission, in balancing the needs of the governmental unit against the need of the utility to receive prompt payment for a high volume user, has determined that a minimum 15 day grace period is reasonable. For

the reasons stated in Finding 11, supra, the Hearing Examiner cannot conclude that such a policy choice renders the rule arbitrary or capricious.

32. While the absence of a special accommodation to governmental units does not render § 3.0319 B unreasonable, the Hearing Examiner suggests that the Commission consider the concerns voiced by the City of St. Paul and the City of Winona as expressed in Public Exhibit 3 and Public Exhibit 26. If the Commission desires to provide a longer minimum grace period for governmental units, it could do so by treating a governmental unit as a residential customer with the longer minimum grace period provided for in § 3.0319 A. It could accomplish the same result by inserting a specific provision in § 3.0319 B directly relating to units of government. For the reasons stated in Finding 14, supra, such an accommodation to units of government would not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111. no change

4 MCAR § 3.0320 - Requirements for Imposing Late Payment Charge

33. § 3.0320 A provides that a utility must file a tariff providing for a late payment charge and specifying the terms and conditions of imposing the late payment charge. A provision regarding the means of implementing the directive of the rules is necessary. The provision is reasonable in that the filing of such tariffs, as a rate, is required by Minn. Stat. § 216B.05 (1982) and Minn. Reg. PSC 175 A. Such a provision is also reasonable as providing the Commission with an opportunity to determine whether or not such tariffs comply with the proposed rules. Finally, filed tariffs would be retained by the utility and the Commission for public inspection, so that any interested person could easily review the applicable tariff.

34. While not affecting need and reasonableness, it would be appropriate to include in § 3.0320 A, a statement that the utility, in seeking approval of its tariff, may not automatically charge the maximum rate and provide the minimum grace period, but must justify its late payment tariff as it would justify the reasonableness of any filed tariff. At least one utility commentator recognized the requirement, albeit unspoken, that it do so. Pub. Ex. 6, p. 8. The proposed rules do not dictate any required rate or required payment time. The rules merely set maximum rates and minimum payment grace period. In so doing, they fix an outer limit on the discretion of the utility and the Commission in order to provide uniformity and protect the public interest. The existence of a rule setting a maximum rate does not relieve the utility from its statutory responsibility to justify the reasonableness of its tariff rate. Minn. Stat. §§ 216B.03, 216B.23 (1982). The rules do not authorize a utility to fix any rate for late payment charges that it chooses as long as the final rate does not exceed 18%. A utility must still provide an appropriate cost basis for the rate imposed. Minn. Stat. §§ 216B.03, 216B.23 (1982). The rule is properly read as authorizing a utility to charge any cost-justified rate for late-payment charges up to the maximum imposed by the Commission as a principle of rate design. To suggest that a utility may impose an 18% rate when only a 12% rate, for example, would be cost-justified, advocates an arbitrary rate within the applicable statutes. It would be ap-

propriate to include in § 3.0320 A a recognition of the duty of cost justification of the rate contained in the tariff by the utility. included p. 3

35. § 3.032 B provides that the utility must clearly indicate upon each bill the terms and conditions of a late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge. This subsection is necessary to comply with the requirements of Minn. Stat. § 222.75 (1982). Moreover, since uniformity is a goal, it is necessary to define the duty of the utility to inform its customers of the application of the rules. The provision is reasonable in that it comports with Minn. Stat. § 222.75 (1982), and specifies the information that a consumer would need to evaluate the effect of a late payment charge.

36. Although not affecting need and reasonableness, the Attorney General suggests that, in addition to a monthly percentage rate, the bill contain a statement of the annual percentage rate of interest imposed by the late payment charges. A maximum late payment charge would result in an interest rate of 1.5 percent per month, but an annual rate of 18 percent. The Attorney General concludes that consumers may not recognize the true annual interest rate unless such a rate is clearly stated. Pub. Ex. 4, p. 2. The Hearing Examiner finds that the inclusion of the additional information suggested by the Attorney General may foster consumer understanding. Hence, it is suggested that the Commission consider including in § 3.0320 B a requirement that the annual percentage rate on the arrearage also be clearly stated on the bill. For the reasons stated in Finding 14, supra, such a revision to the rule would not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111. included p. 3

37. § 3.0320 C requires that a utility administer its late payment charge in a non-discriminatory manner. § 3.0320C is both necessary and reasonable as the result of Minn. Stat. §§ 216B.03 and 216B.07 (1982).

38. § 3.0320 D provides a utility with a 90 day grace period to comply with the rule. § 3.0320 D is entirely an amendment to the rules as originally proposed. As demonstrated by public commentators, it would be necessary for utilties to revise their computer billing systems to comply with the rules. Pub. Ex. 6, p. 7; Pub. Ex. 9; Pub. Ex. 12. Hence, a reasonable compliance period is necessary. The amendment is reasonable in that it provides an appropriate transition period to implement the proposed rules and yet sets a final date by which the utilities must be in compliance. See Finding 11, supra. p. 3

39. For the reasons stated in Finding 14, supra, the addition of § 3.0320 D does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982), or 9 MCAR § 2.111.

40. Several commentators suggested that the proposed rules not be implemented until after a utility completed a general rate case and, only in conjuction therewith. The apparent fear of the utilities is a temporary loss of revenue resulting from a reduction in the amounts realized from the imposition of late payment charges. The timing of a general rate proceeding, however, is uncertain. Some utilties have filed almost annual rate cases, others have experienced a significant period of time between general rate proceedings.

Many factors affect the revenues and expenses of utilities. If the implementation of these rules results in inadequate earnings or a revenue deficiency, a utility may recover the revenue deficiency through a rate increase request. Minn. Stat. § 216B.16 (1982). Hence, the Hearing Examiner rejects the suggestion by several utilities that the proposed rules not be implemented until after an individual utility had filed a general rate proceeding.

4 MCAR § 3.0321 - Amount of Late Payment Charge

41. § 3.0321 A provides that a utility may not assess a late payment charge until the deliquent amount exceeds $10.00. The section was added in response to public comment that a minimum outstanding balance upon which to calculate a late payment charge was necessary in order to avoid customer misunderstanding, confusion, and prejudice to customers with a very small outstanding balance. Pub. Ex. 6, p. 5. § 3.0321 A is both necessary and reasonable to avoid customer confusion with little resultant financial loss to the utility.

42. For the reasons stated in Finding 14, supra, § 3.0321 A, which was added in the rules as finally proposed, does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

43. § 3.0321 B provides that a utility may impose a finance fee for late payment in an amount no greater than one and one-half percent per monthly billing period on the deliquent amount. Since the purpose of the rules is to establish relative uniformity in late payment charges, it is necessary to determine a maximum rate. A variety of public commentators suggested that the maximum of one and one-half percent per monthly billing period was inappropriate. Utilities generally argued that the charge would not be compensatory. Pub. Ex. 20; Pub. Ex. 12; Pub. Ex. 16; Pub. Ex. 8; Pub. Ex. 9. Other commentators stated that the maximum amount fixed by the Commission was excessive. Pub. Ex. 19 and 21; Pub. Ex. 4. Both the Department of Public Service and the Attorney General's office suggested other formulae which would result in a lower maximum monthly charge. For the reasons stated in Finding 11, supra, the Hearing Examiner finds that the Commission has established the reasonableness of its proposed maximum rate. The rate adopted by the Commission is that contained in Minn. Stat. § 3.34.16, subd. 1(b)(1982), which governs the rate for open-end credit sales by sellers with less than $25 million of gross annual sales. Even though utilities are not within the provisions of the statute, consumers are familiar with the interest rate ceilings set therein and there is apparent general acceptance of that limit. It is reasonable to adopt the interest limit that the Legislature has set for the most common consumer transactions as the limit on utility late payment charges in order to avoid the excessively high interest rates found in certain existing utility late payment charges which are as high as 10 percent per month. While other rates may also have a basis in reason, as discussed in Finding 11, supra, the Hearing Examiner is charged with the responsibility of determining whether the rule as advanced by the Commission has a basis in

reason and is supported the record and not to draft, ab initio, the most reasonable rule. Clearly, the maximum rate advanced by the Commission has a basis in reason and is supported by the record.

44. As discussed at Finding 34, supra, however, a utility may not in its proposed tariff automatically charge the maximum rate. It must yet demonstrate in its compliance tariff filing that the rate it applies is reasonable in light of its individual costs. Pub. Ex. 6, p. 8. The rule merely sets a maximum rate that may be cost-justified; it does not fix an individual rate.

45. § 3.0321 B substitutes the phrase "monthly billing period on the deliquent amount" for the phrase "per month on the deliquent account", as contained in the rule as originally submitted. The change was made by the Commission in response to the suggestion of a public commentator and is a logical outgrowth of the hearing process proposed to clarify the intent of the Commission. Pub. Ex. 6. The amendment, in clarifying the intent of the Commission is within the discretion of the Commission. For the reasons stated in Finding 14, supra, this amendment to § 3.0321 B does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

46. § 3.0321 C allows a utility to impose a minimum late payment charge not to exceed one dollar. The section, as originally proposed, allowed a utility to collect a dollar fee in addition to the monthly finance fee of 1.5 percent. The rule, as amended, will reduce one fee available to the utility. For the reasons stated in Finding 41, supra, as respects § 3.0321 A, the imposition of a minimum charge is both necessary and reasonable.

47. For the reasons stated in Finding 14, supra, the amendment to § 3.0321 C does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111. The elimination of the collection fee was recommended by several public commentators. Pub. Ex. 19; Pub. Ex. 21; Pub. Ex. 2. A one dollar collection fee would be confusing to customers and may complicate utility billing procedures. Since the one and one-half percent per month maximum finance fee exceeds the utility's cost of money as reflected in the returns on equity allowed by the Commission, and since a minimum late charge is authorized, the elimination of the collection fee will not unduly prejudice the utilities. If a revenue deficiency results from the elimination of the collection fee, a utility could seek rate relief pursuant to Minn. Stat. § 216B.16 (1982).

48. Several public commentators suggested that, in prescribed circumstances, late payment charges should not be charged. Specific reference was made to the Cold Weather Rules, customer disconnects and fuel assistance recipients. Pub. Ex. 4; Pub. Ex. 11. As stated by the Commission, however, late payment by such customers imposes costs on a utility for which it should be compensated. PUC Ex. 12. While a different policy decision might well had been made by the Commission, the absence of mandatory waiver for persons in certain necessitous circumstances does not render the rule unreasonable. See Finding 11, supra.

4 MCAR § 3.0322 - Crediting of Payments

49. § 3.0322 provides that the utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge. § 3.0322 was not amended in the rules as finally proposed and was not the subject of public comment. Since the subject of the rules is the calculation of a late payment charge, it is necessary to prescribe a rule regarding the crediting of payments received. § 3.0322 is reasonable since it insures that any payments paid by a customer will first be used to reduce or eliminte any past due bill and thereby eliminate or remove any late payment liability. It is reasonable to require this method of crediting since the rules are designed to allow charges which that are compensatory, not punitive.

Miscellaneous Finding

50. The Hearing Examiner has reviewed each comment filed herein. To the extent that a particular comment or portions thereof has not been specifically addressed in this Report, the Hearing Examiner finds that such comments or portions thereof do not affect the need for or the reasonableness of the proposed rules.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Commision gave proper notice of the hearing in this matter.

2. That the Commission has fulfilled the procedural requirements of Minn. Stat. § 14.14, subds. 1, 1a and 2 (1982), as amended by Minn. Laws Ch. 210, § 4 and Ch. 301, § 64, and all other procedural requirements of law or rule.

3. That the Commission has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3, as amended by Minn. Laws 1983, Ch. 210, § 6, and 14.50 (i) and (ii) (1982), except as noted at Finding 24.

4. That the Commission has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii) (1982).

5. That the amendments and additions to the proposed rules which were suggested by the Commission after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That the Hearing Examiner has suggested action to correct the defect cited in Conclusion 3, as noted at Finding 25.

7. That due to Conclusions 3 and 6, this Report has been submitted to the Chief Hearing Examiner for his approval pursuant to Minn. Stat. § 14.15, subd.

3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6.

8. That any Finding which might properly be termed a Conclusion and any Conclusion which might properly be termed a Finding is hereby adopted as such.

9. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Commission from further modification of the proposed rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated this 14th day of December, 1983.

Bruce D Campbell

BRUCE D. CAMPBELL
Hearing Examiner

Reported: Taped.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Leo G. Adams	Chairman
Harry Seymour Crump	Commissioner
Roger L. Hanson	Commissioner
Terry Hoffman	Commissioner
Cynthia A. Kitlinski	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges	Docket No. G,E-999/R-83-99 FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Leo G. Adams	Chairman
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In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges	Docket No. G,E-999/R-83-99 FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES

PROCEDURAL HISTORY

On February 25, 1983 the Minnesota Public Utilities Commission (the Commission) issued an Order for Notice of Intent to Adopt Rules Without a Public Hearing. The Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules were published in the State Register on March 14, 1983 at 7 S.R. 1289. On March 14, the Commission mailed the Notice of Intent to Adopt Rules Without a Public Hearing to all persons who had registered their names with the Commission for the purpose of receiving such notice. On March 14, 1983 the Commission issued a Statement of Additional Notice as provided for in Minn. Stat. § 14.14, subd. 1 (1982). By April 12, 1983, the Commission had received more than seven written requests for a public hearing on these proposed rules. Pursuant to Minn. Stat. § 14.25 (1982), the Commission proceeded under the procedure applicable to controversial rules, Minn. Stat. §§ 14.13 to 14.20 (1982).

On July 1, 1983 the Commission initiated the public hearing portion of the administrative rulemaking process for the adoption of rules governing utility deliquency charges by filing with the Chief Hearing Examiner the following documents:

a copy of the proposed rules (referred to throughout this Order as "the rules as initially proposed");

the Order for Hearing;

the Notice of Hearing;

a Statement of the number of persons expected to attend the public hearings and the estimated length of the Commission's presentation.

On August 5, 1983 the Commission mailed the Notice and Order for Hearing to all persons who had registered their names with the Commission for the purpose of receiving such notice. The Notice of Hearing and the proposed rules were published in the State Register on July 18, 1983 at 8 S.R. 82.

On September 7, 1983 the Commission mailed the Amended Notice of Hearing to all persons who had registered their names with the Commission for the purpose of receiving such notice. An Amended Notice of Hearing was published on September 19, 1983 at 8 S.R. 508. On September 22, 1983 the Commission filed the following documents with Hearing Examiner Bruce Campbell:

Amended Notice and Order for Hearing
Notice and Order for Hearing

Certification of Mailing List for Amended Notice and Order
Certification of Mailing List for Notice and Order

Affidavit of Mailing of Amended Notice and Order
Affidavit of Mailing of Notice and Order

The Commission's Statement of Need and Reasonableness (Statement)

The names of personnel who would represent the Commission at the hearing together with the names of any other witnesses solicited by the Commission to appear on its behalf

State Register publication of proposed rule with Notice of Intent to Adopt Rules Without a Public Hearing

State Register publication of Amended Notice and Order

State Register publication of Notice and Order and Proposed Rules

Public Utilities Commission Calendar, notice of reset of hearing

Comments received prior to setting for hearing

Comments received in response to Notice and Order as of September 21, 1983.

All materials were available for public inspection at the Office of Administrative Hearings and at the Commission's office for at least 25 days prior to the first day of the hearing.

Examiner Campbell conducted a hearing on October 20, 1983 in the Federal Courthouse, St. Paul, Minnesota 55101. Twenty people signed the Hearing Register at the hearing and nine persons gave oral comment. The Commission was represented by Janet F. Gonzalez and Rosellen Condon, members of its staff, and by James T. Jarvis, Special Assistant Attorney General. No witnesses outside the agency were solicited by the Commission to appear on its behalf. The Commission submitted 12 written exhibits, PUC Exhibits 1-12. Twenty-eight (28) timely written exhibits were received from members of the public.

Examiner Campbell extended the period during which the record remained open for 17 calendar days after the date of the hearing. The Commission submitted revised proposed rules and Comments (Comments) to the Examiner on November 7, 1983.

On November 12, 1983 the Commission filed with the Hearing Examiner a Statement of Acceptance or Rejection of Comments, as authorized by Laws 1983, C.210 § 5. On November 12, 1983 the record herein closed.

The Chief Hearing Examiner extended the time for filing of the Examiner's Report and Examiner Campbell submitted his report to the Chief Hearing Examiner on December 14, 1983.

Chief Hearing Examiner Duane Harves issued his report approving Examiner Campbell's report in all respects and, specifically, as to any finding of substantial change or of failure to comply with Minn. Stat. § 14.15, subds. 3 and 4 (1982) as amended by Minn. Laws 1983, C.210 §§ 6 and 7 or of failure to establish the need for or reasonableness of the proposed rules, on December 16, 1983.

The Commission has waited at least five working days following the issuance of the Hearing Examiner's and Chief Hearing Examiner's reports before taking any final action on the proposed rules, and has made copies of those reports available to all interested persons upon request.

Now, upon review of all the records herein, and after considered deliberation thereupon, the Commission makes the following Findings, Conclusions and Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. PROCEDURAL REQUIREMENTS OF LAW

The Commission finds that it has wholly and adequately complied with the procedural requirements of the Minnesota Administrative Procedure Act relating to the adoption of controversial administrative rules and concludes that it may now act to adopt the proposed rules.

II. STATUTORY AUTHORITY

The Commission finds that it has statutory authority to adopt the proposed rules pursuant to Minn. Stat. § 216B.08 (1982) which is a general grant of authority for the Commission to adopt rules and to implement its powers and duties under Minn. Stat. Ch. 216B (1982). In addition, the subject matter authority to address the reasonableness and need for utility delinquency charges is found in Minn. Stat §§ 216A.05 and 216B.23 (1982) as well as in Minn. Stat. § 216B.03 (1982) as amended by Minn. Laws 1983, Ch. 179 § 4.

III. ADOPTED RULES

4 MCAR § 3.0317 DEFINITIONS

A. Applicability

This subsection has no substantive effect.

B. Delinquent Amount

This definition was clarified by the Commission in response to public comment.

The Examiner's Report contained the following discussion of the definition:

> § 3.0317B is a definition of the term "delinquent amount". A definition of the term is necessary to restrict the portion of a customer's account against which a late payment charge may be applied. The definition is reasonable in that it excludes from the definition of "delinquent amount" any portion of a bill representing a non-utility service, which is unregulated by the Commission. The definition reasonably provides that for a residential customer on a budget billing plan or a payment schedule, the delinquent amount is the lesser of the outstanding account balance or the outstanding scheduled payments. The limitation is reasonable since the monthly installment will usually be smaller and it would be unreasonable to apply a late payment charge against the total outstanding balance when the customer and the utility have agreed that only the installment balance is due each month.
>
> § 3.0317B was amended by the Commission in response to public comments as follows: the word "amount" was substituted for the word "account" where it appeared; the specific reference to the Cold Weather Rule Payment Plan was deleted so as to broaden the phrase "payment schedule" which limits the term "delinquent amount"; and the phrase "outstanding scheduled payments" was substituted for the phrase "scheduled monthly payments". Each of the changes, as previously discussed, was made in response to public comment received at the hearings herein. The purpose of the amendments to § 3.0317B is to clarify the application of the rule and expand the equity of its application, especially as regards to those under payment schedules other than the Cold Weather Rule schedule.
>
> The Hearing Examiner finds that the amendments to § 3.0317B are clarifying amendments to achieve equity which are not substantial changes within the meaning of Minn. Stat. § 14.05, subd. 4 (1982) and 9 MCAR § 2.111. The amendments to § 3.0317B do not result in a rule which is fundamentally different, impose burdens on persons who would not have participated in the hearing herein as a consequence of a lack of notice or go to a new subject matter of significant substantive affect. Since the changes were made in response to comments received at the public hearing held herein, they are a logical outgrowth of the hearing process and, as such, do not result in a statutorily prohibited substantial change. American Iron and Steel Institute v. EPA, 568 F.2d 284, 293 (3d Cir. 1977); International Harvester Co. v. Ruckelshaus, 478 F.2d 615, 632 (D.C. Cir. 1983); South Terminal Corp. v. EPA, 504 F.2d 646, 659 (1st Cir. 1974).

The Commission adopts the Examiner's findings. It concludes that the need for and reasonableness of this definition have been demonstrated, and that the modifications to this definition do not constitute substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

C. Late Payment Charge

This definition was clarified by the Commission in response to public comments.

The Examiner discussed this definition as follows:

> § 3.0317C defines the term "late payment charge" as the allowable charge the utility may impose upon a delinquent amount. A definition of the term "late payment charge" is necessary to establish the basic definition of the content of the rule. It is reasonable to clearly state that a late payment charge may only be imposed upon a delinquent amount because that is not only logical but also the primary focus of the rules.

§ 3.0317C, as finally proposed, substitutes the word "amount" for the word "account". This is a clarifying amendment in response to public comment which, for the reasons stated in Finding 14, supra, does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982), and 9 MCAR § 2.111.

The Commission adopts the Examiner's findings. It concludes that the need for and reasonableness of this definition have been adequately demonstrated and that the modification to this definition does not constitute subsdtantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

D. Utility

The need and reasonableness of this definition were discussed in the Statement. It was later modified; the explanation was given in the Commission Comments. The Examiner discussed this revised definition as follows:

> § 3.0317D defines a utility in accordance with the statutory definition. It is necessary to adopt a definition of utility to indicate those entities that are bound by the rules. The rule is reasonable in that it specifies only those utilities over which the Commission has general regulatory jurisdiction. Finally, the rule is reasonable because it comports with the statutory definition of the term.
>
> § 3.0317D was modified to include within the definition of "utility" those non-investor owned utilities over which the Commission has general regulatory authority. Since the purpose of the rule was to foster uniformity and equity in the practices of the utilities over which the Commission has general regulatory authority, it is both necessary and reasonable to include within the definition those non-investor owned utilities over which the Commission does have general rate regulation authority. For the reasons stated in Finding 14, supra, the amendments to § 3.0317D do not constitute substantial changes within the meaning of Minn. Stat. § 14.05, subd. 4 [sic] (1982) and 9 MCAR § 2.111.
>
> The Minnesota Public Interest Research Group (MPIRG) asserts that the definition of the term "utility" is unreasonable in that it excludes from that definition non-investor owned utilities except as they are subject to rate regulation by the Commission. Pub. Ex. 2. MPIRG posits a lack of uniformity among the non-investor owned utilities as to the imposition of late payment charges in respect to both conditions for imposition and amounts charged. This inequity, it is asserted, should be the subject of the rule. MPIRG argues that late payment charges are a practice rather than a rate and, as a practice, are subject to regulatory oversight by the Commission. The Hearing Examiner, in accordance with a recent decision of the Attorney General, concludes that late payment charges are, in fact, a rate...See, Op. Atty. Gen. 624 C-4, Oct. 13, 1980. Support for that conclusion may be found in dicta contained in Taylor v. Beltrami Electric Co-op., Inc., 319 N.W.2d 52, 55 (Minn. 1982). Since the Hearing Examiner concludes that the maximum amount to be charged a customer for a late payment charge fee is a rate and the Commission has no general regulatory authority over the rates of non-investor owned utilities, inclusion of such rates of those utilities would be beyond the statutory authority of the Commission.

The Commission adopts the Examiner's findings. It concludes that the need for and reasonableness of this definition have been demonstrated, and that the modifications to this definition do not constitute substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

E. Residential Customer

This definition has been added to the rules in response to the Hearing Examiner's concerns. The Examiner found that a definition of "residential customer" was needed:

> § 3.0319 establishes two measures for determining whether a customer's bill is delinquent. As such, it distinguishes between "residential customers" and "nonresidential customers" and fixes a separate grace period for each class of customers.

There does not appear to be a universal definition of the term "residential customer". The term may be defined in the individual tariff of the utility, differentiating between residential and nonresidential classes of service. Even that assumption, however, is not universal. See Pub. Ex. 7. Moreover, the definition of the term could well vary in differing tariff filings. In the absence of a definition of the term "residential customer" either the utility in its filing of a tariff, or the Commission in its approval of that implementing tariff, has relative discretion in the application of the proposed rules. Nor is there a single universally accepted definition of the term "residential customer" in industry or regulatory practice. In the Cold Weather rules, for example, the term is defined to include certain customers which, in a tariff filing, would normally be considered to be receiving nonresidential or commercial service. See Pub. Ex. 11. Important differences in treatment result from the definition of the term "residential customer", as distinguished from "nonresidential customer" and there does not appear to be a uniform definition of the term.

The Hearing Examiner finds that § 3.0319A, which contains no definition of the operative term "residential customer", is illegal in that it authorizes the Commission to approve a distinct definition of the operative term in a later tariff filing outside of the rulemaking process. Such discretion has uniformly been considered by the Office of Administrative Hearings and the Office of the Attorney General as resulting in an illegal rule within the meaning of Minn. Stat. § 13.01, subd. 4 (1982), because of a prohibited lack of specificity.

To correct the defect, the Commission must include in § 3.0319A, or in the general definitional section, § 3.0317, a definition of the term "residential customer". Such a definition must find support in the record or common understanding and must not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

The amendments to § 3.0319A in the rule as finally proposed do not constitute substantial changes within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111. See Finding 14, supra.

The Commission has followed the Examiner's recommendation in the rule as adopted. In accord with the Hearing Examiner's recommendation, the Commission has added the following definition to the rule:

Residential Customer. "Residential customer" means a customer of a utility whose principal use of gas or electricity is for household purposes such as lighting, cooking, water heating and space heating in space occupied as living quarters. Utility service is normally supplied through a single meter to a single family dwelling unit, but apartments or other subdivided dwelling units may be classified as residential even though several individual units take service through the same meter.

The Commission finds that this definition finds support in common understanding and a study by Commission staff of utility tariffs currently on file with the Commission, i.e., Northern States Power Company Electric Rate Book, Sheet No. 6-6.1, original (July 6, 1982); Gas Rate Book, Sheet No. 6.5, Revision 3 (September 20, 1983); Minnegasco, Rate Book Section VI, p. 3 (December 31, 1974); Montana-Dakota Utilities Company, Minn. Gas Rate Book, Section VI, Page 4 (December 31, 1974). The Commission recognizes that while minor differences may exist in defining the term "residential customer," both consumers and utilities agree on the concept. Given that underlying agreement and the need to maintain uniformity, it is necessary to provide an acceptable definition of the term. Since this definition is grounded on common understanding and modelled on currently existing utility tariffs, the Commission finds that the addition of this definition does not result in substantial change. The Commission concludes that the need for and reasonableness of the definition have been adequately demonstrated. The Commission also concludes that the addition of this definition which clarifies the intent of the rules does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

4 MCAR § 3.0318 BILLING TERMS

No change has been made in this section of the rule as originally proposed. The Commission's Statement contained the following discussion of this definition:

> This section is necessary to standardize the terms used to describe charges that have historically functioned as late payment charges. Since these rules will establish a uniform method for computing and billing late payment charges, it is reasonable to also establish a uniform method for alerting customers of the charge that may be imposed for failure to pay on time. In addition, it is reasonable to end the use of terms that the Commission believes may have confused or misled customers, such as "discounts", and replace them with a readily understandable term.

The Examiner reported that no comments were submitted with respect to this section. He found this section to be both necessary and reasonable on the record.

The Commission adopts the reasoning of its Statement and the Examiner's findings and concludes that the need for and reasonableness of this section have been adequately demonstrated by the Statement.

4 MCAR § 3.0319 DETERMINATION OF DELINQUENCY

A. Residential Customer

In regard to the definition of Residential Customer, please see discussion under 4 MCAR § 3.0317E.

This section was modified in response to public comments. The Commission's Statement contained the following discussion of this section:

> This section is necessary to establish a uniform method of determining when a customer should have a late payment charge levied against his or her bill. It is reasonable to create two measures of delinquency, because residential and nonresidential customers have differing sources of income and ability to respond to utility billings.
>
> A. Residential customer. This subsection establishes a minimum period of 25 days from the current billing date during which the residential customer may pay the bill without a late payment charge. The utility may establish the next scheduled billing date further away from the current billing date than 25 days if the utility's billing system will accommodate it, but may not use a period shorter than 25 days.
>
> The Commission has considered the conflicting interests at stake when deciding how long a grace period is appropriate. The Commission believes it is reasonable to use a 25-day period for residential customers for three reasons. First, a 25-day period will allow virtually all residential customers to receive income before the next scheduled billing date. The Commission understands that some customers may only receive income once a month; the 25-day period will serve to greatly minimize any gap between the date of income and the next scheduled billing date.
>
> Second, a 25-day period will not unduly delay a utility's receipt of payment. Because a gas or electric utility delivers its services every day to its customers, each month a portion of each customer's bill is for service rendered up to 30 days before. The 25-day period will mean that a customer will have use of the service without paying for no more than 55 days.
>
> Third, a 25-day period will ensure that there will be time for payments made even at the end of the grace period to be posted to the customer's account and appear on the next bill. The Commission believes that a period longer than 25 days would create the possibility that a customer could pay his or her bill at the end of the grace period, but that the utility would not have time to credit the payment on the next bill. In those cases, the customer could have paid in a timely fashion, but still have a late payment charge appear on the next bill. It is likely that considerable customer confusion and dissatisfacton would result, since the

utility would have to remove the late payment charge when it did post the payment to the customer's account. This would mean at best a recomputing of the bill in the next month, and at worst it would be possible for a customer paying on time at the end of the grace period to see a late payment charge on the next bill and to unnecessarily pay that late charge under the mistaken belief that the payment had not been timely. It is reasonable to avoid the potential for customer misunderstanding and error by establishing a grace period that will permit utilities' billing systems to function properly.

In addition, it is necessary to establish the maximum length of time between the current billing date and the date of mailing of the bill. It is reasonable to allow some period of time for preparing and mailing the bill, but it would be unreasonable to allow an overly long period, since that would unreasonably reduce the customer's effective grace period. A three-working-day period is reasonable because it will allow sufficient time for bills to be processed out of the utility's hands, but will not significantly reduce the customer's effective grace period.

In response to public comments, the Commission revised this section. The Comments contained the following discussion:

Virtually all utilities objected that the time frames established in this section were unworkable.

The Commission finds that the present wording is ambiguous and proposes to modify the language to make its intent clear.

The Commission intends that if payment is received by the utility by the time the next bill is being prepared, no late payment charge be imposed. The Commission wants to provide the utility with adequate time for bill processing and notes NSP's current practice of printing a due date on the bill which is four days earlier than the next scheduled billing date.

The Examiner discussed this section as follows:

§ 3.0319 establishes two measures for determining whether a customer's bill is delinquent. As such, it distinguishes between "residential customers" and "nonresidential customers" and fixes a separate grace period for each class of customers.

§ 3.0319A specifies a method for calculating when a late payment charge may be imposed upon a residential customer. It provides that the residential customer's bill payment must be received by the utility by the next scheduled billing date which must be not less than 25 days from the current billing date and that the current billing date must be no more than three working days before the date of mailing of the bill by the utility. The last sentence of § 3.0319A was amended in the proposed rule to allow a utility to print a due date on the bill which is not more than five days before the next scheduled billing date. This section is necessary to establish a uniform method of determining when a customer should have a late payment charge levied. It is reasonable to create two measures of delinquency, because residential and nonresidential customers have different sources of income and ability to respond to utility billings.

§ 3.0319A was the subject of 14 individual comments by public participants. The utilities uniformly opined that the grace period was too long and did not afford the utility an opportunity to process payments received at the end of the grace period. It was asserted that customer confusion would result from allowing a period of grace and only three days for the utility to process the payment. No public commentator argued that the period of grace was too short. In response to public comments, the Commission authorized a utility, in effect, additional bill processing time through the addition of the last sentence of § 3.0319A. In support of the grace period established, the Commission states that the sources of income of a residential customer may be monthly and that the payment may be difficult for a residential customer to make if a shorter minimum grace period were authorized. Ottertail Power Company asserts that the grace period, which it characterizes as at least 55 days, does not comport with

current commercial practice and, as a conseqence, is unreasonable. Pub. Ex. 25. Initially, it should be noted that service is being provided until the end of the billing cycle. A portion of the energy is used on the first day of the cycle and a portion is also used on the last day of the cycle. Under such circumstances, in the absence of daily metering and billing, it is reasonable to conclude that the amount is owed when the billing cycle closes. Hence, even the unamended version of the rule proposed by the Commission would more accurately be characterized as a 25-day grace period. Payment within 30 days to avoid additional charges, including interest, is common in commercial circles. The legitimate interest of the utilities in the timely processing of bills has been reasonably accommodated by the addition of the last sentence of § 3.0319A.

The Hearing Examiner finds that the Commission has established a minimum grace period which is well within a rule of reason reflecting a proper exercise of its discretion. ...The amendments to § 3.0319A in the rule as finally proposed do not constitute substantial changes within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

The Commission adopts the Examiner's findings. It concludes that the need for and reasonableness of this section has been adequately demonstrated and that the amendments to this section do not constitute substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

B. Nonresidential Customer

This section of the rule was modified in response to public comment. The Statement explained the purpose of this section as initially proposed:

This subsection establishes a minimum 15-day period during which a nonresidential customer may pay a utility bill without a late-payment charge. A utility may establish a grace period longer than 15 days for nonresidential customers, but may not give them less than 15 days to pay.

It is reasonable to use a 15-day period for nonresidential customers because these customers do not have the potential for income timing problems that residential customers do. The Commission believes that a balancing of the interests of the utility in receiving payment for service rendered up to a month before billing, particularly considering the larger amounts generally charged nonresidential customers, weighs heavily in favor of a shorter grace period in the absence of the countering income-timing consideration found in the case of residential customers.

A three-working-day limit on the period from current billing date to date of mailing is necessary and reasonable for the reasons discussed under residential customers.

The Examiner stated that this section:

§ 3.0319B provides a nonresidential customer with a minimum 15-day grace period for payment from the current billing date. No public witness testified that the grace period provided was unreasonable, except as applied to governmental units. Pub. Ex. 26, p. 2; Pub. Ex. 3. Since it is reasonable to distinguish between residential and nonresidential customers, it is necessary to establish a separate grace period for nonresidential customers. It is reasonable to provide a shorter minimum grace period for nonresidential customers because of the usually larger consumption of such customers and the relative absence of the income-timing considerations found in the case of residential customers. The minimum grace period of 15 days for payment by nonresidential customers is within the range of reason committed to Commission direction. See Finding 11, supra.

§ 3.0319B in the rules as finally proposed substitutes the phrase "received by the utility" for the word "paid". In the absence of such clarifying language, a bill could be considered paid when mailed. Given postal service delays, the utility might not have time to credit the payment before the imposition of a late payment charge. Hence, to clarify the intention of the Commission and to avoid customer confusion resulting from inadequate time to post payments, the amendment to § 3.0319B is both necessary and reasonable.

Although § 3.0319B does not contain a definition of the term "nonresidential customer", the Hearing Examiner does not find the provision to be illegal. The term "nonresidential customer" is entirely a residual category. If the term "residential customer" is defined in the rules, no definition of the term "nonresidential customer" will be necessary. See Findings 24-235, supra. For purposes of clarity, however, it would be advisable to include in the rule a specific statement about the residual nature of the term with a cross-reference to the definition of the term "residential customer". Such a clarifying provision would not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111. See Finding 14, supra.

For the reasons stated in Finding 14, supra, the amendment to § 3.0319B does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

The Commission considered the Examiner's suggestion of a specific statement regarding the residual nature of the term "nonresidential" and concluded that no change in the rule is necessary. The Commission finds that the term "nonresidential" is obviously residual by nature and, therefore, defining it would be redundant and unnecessary. The Commission adopts the Examiner's findings. It concludes that the need for and reasonableness of this section has been adequately demonstrated and that the amendment to it does not constitute substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

The Examiner noted in his report that several governmental commentators suggested that the nonresidential grace period was inadequate as applied to them. He wrote that the utility is not required to impose a late payment charge on a governmental unit. He recognized that the Commission, in balancing the needs of the governmental unit against the need of a utility to receive prompt payment for a high volume user, determined that a minimum of 15-day grace period is reasonable. He concluded that such a policy choice does not render the rule arbitrary or capricious.

The Examiner suggested that the Commission could provide a longer minimum grace period for governmental units, either by treating a governmental unit as a residential customer or by inserting a specific provision in this section directly relating to governmental units.

The Commission has reconsidered its position and finds that no change in the rule need be made. The Commission finds that fairness dictates that governmental units should not be a separate group for purposes of this rule. Their usage levels are very similar to those of any other nonresidential customer. In addition, no party proposed a clear definition of a governmental unit and the Commission concludes that there is no need to add to the complexity of this rule.

4 MCAR § 3.0320 REQUIREMENTS FOR IMPOSING LATE PAYMENT CHARGE

A. Tariffs

The Commission has modified this section of the rule in response to comments of the Hearing Examiner. The Statement explained the purpose of this section of the rules as initially proposed as follows:

> This section is necessary to establish the action a utility must have taken before it can impose a late payment charge on any customer.
>
> It is reasonable to require each utility to file and have approved tariffs containing its proposed late payment charge amounts, terms and conditions so that the Commission can review the tariffs to see that they comply with these rules. If the tariffs do not comply with these rules, the Commission can alter them so they do comply. Once the tariffs are approved, they will be on file with the utility and the Commission for public inspection, so that any interested person can review them easily.
>
> Requiring the filing of proposed tariffs for late payment charges is consistent with the process required by the Commission under Minn. Reg. PSC 175A for all other proposed rates or rules and regulations. Minn. Reg. PSC 175A is based upon M.S. § 216B.05, which requires every regulated

gas and electric utility to file with the Commission schedules showing all rates, tolls and charges which the utility has established, and to file all rules and regulations that, in the judgment of the Commission, affect the utility's service. Clearly, the rates, terms and conditions of a late payment charge affect the utility's service and fall under M.S. § 216B.05.

The Hearing Examiner in his review of this section wrote:

> § 3.0320A provides that a utility must file a tariff providing for a late payment charge and specifying the terms and conditions of imposing the late payment charge. A provision regarding the means of implementing the directive of the rules is necessary. The provision is reasonable in that the filing of such tariffs, as a rate, is required by Minn. Stat. § 216B.05 (1982) and Minn. Reg. PSC 175A. Such a provision is also reasonable as providing the Commission with an opportunity to determine whether or not such tariffs comply with the proposed rules. Finally, filed tariffs would be retained by the utility and the Commission for public inspection, so that any interested person could easily review the applicable tariff.
>
> While not affecting need and reasonableness, it would be appropriate to include in § 3.0320A a statement that the utility, in seeking approval of its tariff, may not automatically charge the maximum rate and provide the minimum grace period, but must justify its late payment tariff as it would justify the reasonableness of any filed tariff. At least one utility commentator recognized the requirement, albeit unspoken, that it do so. Pub. Ex. 6, p. 8. The proposed rules do not dictate any required rate or required payment time. The rules merely set maximum rates and minimum payment grace period. In so doing, they fix an outer limit on the discretion of the utility and the Commission in order to provide uniformity and protect the public interest. The existence of a rule setting a maximum rate does not relieve the utility from its statutory responsibility to justify the reasonableness of its tariff rate. Minn. Stat. §§ 216B.03, 216B.23 (1982). The rules do not authorize a utility to fix any rate for late payment charges that it chooses as long as the final rate does not exceed 18 percent. A utility must still provide an appropriate cost basis for the rate imposed. Minn. Stat. §§ 216B.03, 216B.23 (1982). The rule is properly read as authorizing a utility to charge any cost-justified rate for late payment charges up to the maximum imposed by the Commission as a principle of rate design. To suggest that a utility may impose an 18 pecent rate when only a 12 percent rate, for example, would be cost-justified, advocates an arbitrary rate within the applicable statutes. It would be appropriate to include in § 3.0320A a recognition of the duty of cost justification of the rate contained in the tariff by the utility.

The Hearing Examiner recommended that the Commission add language that a utility must include in its filed tariff an appropriate cost-justified rate for late-payment charges up to the maximum imposed by the Commission as a principle of rate design.

Since the Commission found the reasons given by the Hearing Examiner to be persuasive, it has added the sentence: "The filing shall include substantiating documents and exhibits supporting the finance and grace periods proposed."

The Commission adopts the findings of the Hearing Examiner and concludes that the need for and reasonableness of this section has been adequately demonstrated. The Commission further concludes that the amendments to these sections do not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

B. Bill Content

The Commission has modified this section of the rule in response to comments of the Hearing Examiner.

In his review of this section, the Hearing Examiner wrote:

§ 3.032B provides that the utility must clearly indicate upon each bill the terms and conditions of a late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge. This subsection is necessary to comply with the requirements of Minn. Stat. § 222.75 (1982). Moreover, since uniformity is a goal, it is necessary to define the duty of the utility to inform its customers of the application of the rules. The provision is reasonable in that it comports with Minn. Stat § 222.75 (1982), and specifies the information that a consumer would need to evaluate the effect of a late payment charge.

Although not affecting need and reasonableness, the Attorney General suggests that, in addition to a monthly percentage rate, the bill contain a statement of the annual percentage rate of interest imposed by the late payment charges. A maximum late payment charge would result in an interest rate of 1.5 percent per month, but an annual rate of 18 percent. The Attorney General concludes that consumers may not recognize the true annual interest rate unless such a rate is clearly stated. Pub. Ex. 4, p. 2. The Hearing Examiner finds that the inclusion of the additional information suggested by the Attorney General may foster consumer understanding. Hence, it is suggested that the Commission consider including in § 3.0320B a requirement that the annual percentage rate on the arrearage also be clearly stated on the bill. For the reasons stated in Finding 14, supra, such a revision to the rule would not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

The Hearing Examiner recommended that the Commission require that language be added to the bill content stating the annual percentage rate of interest imposed by the late payment charge. Since the Commission found the reasons given by the Hearing Examiner to be persuasive, it has added the words: "and the annual".

The Commission adopts the findings of the Hearing Examiner and concludes that the need for and reasonableness of this section has been adequately demonstrated. The Commission further concludes that the amendment to this section does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

C. Uniformity

This section of the rule remains unchanged from the rule as initially proposed. The Commission's Statement contained the following discussion of this section:

This subsection is necessary to ensure that all customers are treated in a nondiscriminatory fashion by utilities. M.S. § 216B.03 requires that rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory. Further, M.S. § 216B.07 requires that no public utility shall make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

It is reasonable to require uniformity in the application of any late payment charge because allowing a utility to impose a late payment charge against only certain customer classes or against only certain customers would be to allow unreasonable discrimination against those classes or customers who would be paying late payment charges when others would be allowed to be delinquent without paying the costs of delinquency. It is reasonable to require late payment charges to be applied consistently to prevent a utility from granting an unreasonable preference on a customer-by-customer basis.

The Hearing Examiner, in his review of this section, wrote:

§ 3.0320C requires that a utility administer its late payment charge in a nondiscriminatory manner. § 3.0320C is both necessary and reasonable as the result of Minn. Stat. §§ 216B.03 and 216B.07 (1982).

The Commission adopts the reasoning of its Statement and the findings of the Hearing Examiner and concludes that the need for and reasonableness of this section have been adequately demonstrated.

D. Implementation

This section of the rule as adopted is an addition to the rule as initially proposed and was made in response to public comment.

The Examiner found this section necessary and reasonable:

> § 3.0320D provides a utility with a 90-day period to comply with the rule. § 3.0320D is entirely an amendment to the rule as originally proposed. As demonstrated by public commentators, it would be necessary for utilities to revise their computer billing systems to comply with the rules. Pub. Ex. 6, p. 7; Pub. Ex. 9; Pub. Ex. 12. Hence, a reasonable compliance period is necessary. The amendment is reasonable in that it provides an appropriate transition period to implement the proposed rules and yet sets a final date by which the utilities must be in compliance. See Finding 11, supra.
>
> For the reasons stated in Finding 14, supra, the addition of § 3.0320D does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.
>
> Several commentators suggested that the proposed rules not be implemented until after a utility completed a general rate case and, only in conjunction therewith. The apparent fear of the utilities is a temporary loss of revenue resulting from a reduction in the amounts realized from the imposition of late payment charges. The timing of a general rate proceeding, however, is uncertain. Some utilities have filed almost annual rate cases, others have experienced a significant period of time between general rate proceedings. Many factors affect the revenues and expenses of utilities. If the implementation of these rules results in inadequate earnings or a revenue deficiency, a utility may recover the revenue deficiency through a rate increase request. Minn. Stat. § 216B.16 (1982). Hence, the Hearing Examiner rejects the suggestion by several utilities that the proposed rules not be implemented until after an individual utility had filed a general rate proceeding.

The Commission adopts the Examiner's findings and concludes that the need for and reasonableness of this section have been adequately demonstrated and that the addition of this section does not constitute substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

4 MCAR § 3.0321 AMOUNT OF LATE PAYMENT CHARGE

A. Minimum Delinquent Amount

This section of the rule as adopted is an addition to the rules as initially proposed. The revision was made in response to public comment.

The Examiner found this section as finally proposed was necessary and reasonable:

> § 3.0321A provides that a utility may not assess a late payment charge until the delinquent amount exceeds $10. The section was added in response to public comment that a minimum outstanding balance upon which to calculate a late payment charge was necessary in order to avoid customer misunderstanding, confusion and prejudice to customers with a very small outstanding balance. Pub. Ex. 6, p. 5. § 3.0321A is both necessary and reasonable to avoid customer confusion with little resultant financial loss to the utility.
>
> For the reasons stated in Finding 14, supra, § 3.0321A, which was added in the rules as finally proposed, does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

The Commission adopts the Examiner's findings and concludes that the need for and reasonableness of this section as adopted have been adequately demonstrated. The Commission also concludes that the addition to the rules does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) and 9 MCAR § 2.111.

B. Finance Fee

This section of the rule was modified in response to public comment. This section was described in the Statement as follows:

> This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of money. A utility that does not receive timely payment from its customers must obtain its day-to-day working capital from other sources. This acquisition of short-term capital has a cost associated with it. It is reasonable to allow a utility to recover at least a major portion of this cost from the customers who impose it, rather than from all ratepayers. It is reasonable to set the maximum rate for the cost of money at one and one-half percent per month to be consistent with the interest limits set in M.S. § 334.16, subd. 1(b), which governs the rate for open-ended credit sales by sellers with less than $25 million of gross annual sales in Minnesota. Even though utilities are not covered by M.S. § 334.15, subd. 1(b), the Commission believes consumers are familiar with the interest rate ceiling set therein, and believes they have general acceptance of that limit. Further, it is reasonable to adopt the interest limit that the Legislature has set for the most common consumer transactions as the limit on utility late payment charges in order to avoid the excessively high interest rates found in certain existing utility late payment charges, which are as high as 10 percent per month.

In his review of this section, the Examiner wrote:

> § 3.0321B provides that a utility may impose a finance fee for late payment in an amount no greater than one and one-half percent per monthly billing period on the delinquent amount. Since the purpose of the rules is to establish relative uniformity in late payment charges, it is necessary to determine a maximum rate. A variety of public commentators suggested that the maximum of one and one-half percent per monthly billing period was inappropriate. Utilities generally argued that the charge would not be compensatory. Pub. Ex. 20; Pub. Ex. 16; Pub. Ex. 8; Pub. Ex. 9. Other commentators stated that the maximum amount fixed by the Commission was excessive. Pub. Ex. 19 and 21; Pub. Ex. 4. Both the Department of Public Service and the Attorney General's Office suggested other formulae which would result in a lower maximum monthly charge. For the reasons stated in Finding 11, supra, the Hearing Examiner finds that the Commission has established the reasonableness of its proposed maximum rate. The rate adopted by the Commission is that contained in Minn. Stat. § 334.16, subd. 1(b) (1982), which governs the rate for open-end credit sales by sellers with less than $25 million of gross annual sales. Even though utilities are not within the provisions of the statute, consumers are familiar with the interest rate ceilings set therein and there is apparent general acceptance of that limit. It is reasonable to adopt the interest limit that the Legislature has set for the most common consumer transactions as the limit on utility late payment charges in order to avoid the excessively high interest rates found in certain existing utility late payment charges which are as high as 10 percent per month. While other rates may also have a basis in reason, as discussed in Finding 11, supra, the Hearing Examiner is charged with the responsibility of determining whether the rule as advanced by the Commission has a basis in reason and is supported the record and not to draft, ab initio, the most reasonable rule. Clearly, the maximum rate advanced by the Commission has a basis in reason and is supported by the record.
>
> As discussed at Finding 34, supra, however, a utility may not in its proposed tariff automatically charge the maximum rate. It must yet demonstrate in its compliance tariff filing that the rate it applies is reasonable in light of its individual costs. Pub. Ex. 6, p. 8. The rule merely sets a maximum rate that may be cost-justified; it does not fix an individual rate.
>
> § 3.0321B substitutes the phrase "monthly billing period on the delinquent amount" for the phrase "per month on the delinquent account", as contained in the rule as originally submitted. The change was made by the Commission in response to the suggestion of a public commentator and is a

logical outgrowth of the hearing process proposed to clarify the intent of the Commisson. Pub. Ex. 6. The amendment, in clarifying the intent of the Commisson is within the discretion of the Commission. For the reasons stated in Finding 14, supra, this amendment to § 3.0321B does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

The Commission adopts the reasoning of its Statement and the findings of the Examiner and concludes that the need for and reasonableness of this section have been adequately demonstrated. The Commission also concludes that the substitution in language from "monthly billing period or the delinquent amount" for the phrase "per month on the delinquent account" does not result in a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

C. Minimum Finance Fee

This section of the rule was revised by the Commission in response to public comment. As originally proposed, this section provided for the imposition of a $1 collection fee. It was changed to provide for the imposition of a minimum finance fee. The Commission stated its rationale in the Comments:

> The Commission finds that the $1 collection fee would be confusing to customers and may complicate utility billing procedures. The one and one-half percent per month finance fee is greater than the utilities' cost of money as reflected in the returns on equity allowed by the Commission. Therefore, the finance fee already makes allowances for recovery of some portion of the fixed collection costs that may be incurred by utilities. Realizing that a lower recovery of fixed costs results from applying a late charge to small delinquent amounts, the Commission proposes to allow utilities to impose a minimum finance fee of no greater than $1.

In his review of this section, the Examiner wrote:

> § 3.0321C allows a utility to impose a minimum late payment charge not to exceed $1. The section, as originally proposed, allowed a utility to collect a dollar fee in addition to the monthly finance fee of 1.5 percent. The rule, as amended, will reduce one fee available to the utility. For the reasons stated in Finding 41, supra, as respects § 3.0321A, the imposition of a minimum charge is both necessary and reasonable.
>
> For the reasons stated in Finding 14, supra, the amendment to § 3.0321C does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111. The elimination of the collection fee was recommended by several public commentators. Pub. Ex. 19; Pub. Ex. 21; Pub. Ex. 2. A $1 collection fee would be confusing to customers and may complicate utility billing procedures. Since the one and one-half percent per month maximum finance fee exceeds the utility's cost of money as reflected in the returns on equity allowed by the Commission, and since a minimum late charge is authorized, the elimination of the collection fee will not unduly prejudice the utilities. If a revenue deficiency results from the elimination of the collection fee, a utility could seek rate relief pursuant to Minn. Stat. § 216B.16 (1982).

It is the Commission's intent that the imposition of either the minimum finance fee of no more than $1 or the finance fee no greater than 1 1/2 percent per monthly billing period be exclusive for any monthly billing period. Therefore, if the delinquent amount is less than $10, no late payment charge may be imposed; if the delinquent amount exceeds $10 and applying the utility's allowable finance fee percentage to it results in a late payment charge of less than $1, the utility may impose a $1 late payment charge. If applying the allowable finance fee percentage to the delinquent amount results in a late payment charge greater than $1, the utility may impose its allowable finance fee percentage.

The Commission finds that this fee structure is reasonable as consumers are familiar with the schedule of finance fees embodied in Minn. Stat. § 334.16 (1982), governing the rate for open-end credit sales by sellers with less than $25 million of gross sales. While realizing that utilities are not within the provisions of the statute, the Commission finds that consumers are familiar with and accepting of this type of rate ceiling and the imposition of a minimum finance charge.

The Commission adopts the findings of the Examiner and concludes that the need for and reasonableness of this section have been adequately demonstrated. The Commission also concludes that the amendment to this section does not constitute a substantial change within the meaning of Minn. Stat. § 14.05, subd. 2 (1982) or 9 MCAR § 2.111.

4 MCAR § 3.0322 CREDITING OF PAYMENTS

This section of the rule remains unchanged from the rule as initially proposed. The Commission's Statement contained the following discussion of this section:

> This section is necessary to ensure that any payment made by a customer is first used to reduce or eliminate any past-due bill and thereby limit or remove any late payment liability. It is reasonable to require this method of crediting since these rules are designed to allow charges that are compensatory, not punitive.

The Examiner received no comments on this section and he found that this section was necessary and reasonable.

The Commission adopts the reasoning of its Statement and the Examiner's findings and concludes that the need for and reasonableness of this section have been adequately demonstrated by the Statement.

ORDER

1. The rules governing utility delinquency charges, appended hereto as Attachment A, are hereby adopted.

2. The Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Randall D. Young
Executive Secretary

SERVICE DATE: FEB 6 1984
RDY:RC:djs
0519C
2/6/84

(S E A L)

Rules as Proposed (all new material) -- Revised 1/9/84

4 MCAR § 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR §§ 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent ~~account~~ amount. "Delinquent ~~account~~ amount" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a ~~utility's~~ budget billing plan or a payment schedule ~~under 4 MCAR § 3.0299 G.~~, "delinquent ~~account~~ amount" means the lesser of the outstanding account balance or the outstanding scheduled ~~monthly~~ payments. HE 4

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent ~~account~~ amount. HE 16

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02, as modified by Minnesota Statutes, sections 216B.025 and 216B.026. HE 18

E. Residential customer. "Residential customer" means a customer of a utility whose principal use of gas or electricity is for household purposes such as lighting, cooking, water heating, and space heating in space occupied as living quarters. Utility service is normally supplied through a single meter to a single family dwelling unit, but apartments or other subdivided dwelling units may be classified as residential even though several individual units take service through the same meter. HE 24-25

4 MCAR § 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge which results from delinquent payment.

4 MCAR § 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's ~~utility~~ bill payment is not ~~paid~~ received by the utility by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility. The utility may print a due date on the bill which is not more than five days before the next scheduled billing date. HE 22-23

B. Nonresidential customer. If a nonresidential customer's utility bill is not ~~paid~~ received by the utility HE 28 within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

4 MCAR § 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge. The filing shall include substantiating documents and exhibits supporting the finance fee and grace periods proposed. HE 34

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly and the annual percentage rate of the late payment charge. HE 36

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

D. Implementation. Within 90 days of the effective date of this rule, the utility shall comply with the tariff, bill content, and uniformity requirements of this rule. HE 38

4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility ~~must consist of the following two components~~ shall be calculated as follows:

A. Minimum delinquent amount. The utility shall not assess a late payment charge until the delinquent amount exceeds $10. HE 41,42

A.B. Finance [redacted]. The utility may impose a f[redacted]nce fee no greater than 1 1/2 percent per monthly billing period on the delinquent ~~account~~ amount. HE 45

B.C. ~~Collection~~ Minimum finance fee. The utility may impose a ~~collection~~ minimum finance fee no greater than $1. HE 46, 47

4 MCAR § 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

CERTIFICATE OF COMMISSION'S RESOLUTION ADOPTING RULES

DOCKET NO. G,E-999/R-83-99

I, Randall D. Young, do hereby certify that I am the Executive Secretary of the Minnesota Public Utilities Commission (the Commission), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Commission, duly and properly called and held on January 31, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "The Minnesota Public Utilities Commission resolves that the Utility Delinquency Charge rules, 4 MCAR §§ 3.0317-3.0322, are approved and adopted pursuant to its authority found in Minnesota Statutes § 216B.08. Randall D. Young, the Executive Secretary of the Commission, is hereby authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to privde that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of February 1984.

Randall D. Young
Executive Secretary

ATTEST BY: Leo G Adams
Leo G. Adams, Chairman

RC/djs

AMERICAN CENTER building • kellogg AND ROBERT STS • SAINT PAUL, MN 55101

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Terry Hoffman	Chairman
Leo G. Adams	Commissioner
Roger L. Hanson	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

STATEMENT OF NEED AND REASONABLENESS

DOCKET NO. G,E-999/R-83-99

4 MCAR §3.0317 Definitions.

A. Applicability. This subsection is for clarity only.

B. Delinquent Account. This definition is necessary to restrict the portion of a customer's account against which a late payment charge may be levied. The first restriction is that a late payment charge may only be applied against the portion of a bill representing charges for utility services. This is necessary because utilities may include charges on customers' bills for things other than utility services, such as payments for appliances. It is reasonable to exclude non-utility products or services from being subject to late payment charges since the rates, terms, and conditions of those non-utility products or services are not subject to the Commission's regulatory authority.

The second restriction is that a customer who is paying his or her utility bill in installments, under a "budget billing" plan offered by the utility, under a statutory budget billing plan, or under a payment schedule set up through the Commission's Cold Weather Rule, and who is delinquent with his or her bill will have a late payment charge figured against either the total outstanding balance or the monthly payment due under the installment arrangement, whichever is the smaller. This is reasonable since the monthly installment will usually be smaller, and it would be unreasonable to apply a late payment charge against the total outstanding balance when the customer and the utility have agreed that only the installment payment is due each month.

C. Late Payment Charge. This definition is necessary to establish the basic definition of these rules. It is reasonable to clearly state that a late payment charge may only be imposed upon a delinquent account because that is the primary focus of these rules.

D. Utility. This definition is necessary to clearly indicate which utilities will be required to comply with the rules. First, it is necessary to include only those utilities over which the Commission has general regulatory

authority. The Commission cannot require utilities outside its jurisdiction to comply with its rules. Second, it is reasonable to include only gas and electric utilities, and to exclude telephone companies, because gas and electric utilities bill their customers for service after it is rendered, while telephone companies bill their customers for local service in advance of that service being rendered. It would be inconsistent with the basic intent of these rules to impose a late payment charge on a bill for service that had not yet been received by a customer.

4 MCAR §3.0318 Billing terms. This section is necessary to standardize the terms used to describe charges that have historically functioned as late payment charges. Since these rules will establish a uniform method for computing and billing late payment charges, it is reasonable to also establish a uniform method for alerting customers of the charge that may be imposed for failure to pay on time. In addition, it is reasonable to end the use of terms that the Commission believes may have confused or misled customers, such as "discounts", and replace them with a readily understandable term.

4 MCAR §3.0319 Determination of delinquency. This section is necessary to establish a uniform method of determining when a customer should have a late payment charge levied against his or her bill. It is reasonable to create two measures of delinquency, because residential and non-residential customers have differing sources of income and ability to respond to utility billings.

A. Residential customer. This subsection establishes a minimum period of 25 days from the current billing date during which the residential customer may pay the bill without a late payment charge. The utility may establish the next scheduled billing date further away from the current billing date than 25 days if the utility's billing system will accommodate it, but may not use a period shorter than 25 days.

The Commission has considered the conflicting interests at stake when deciding how long a grace period is appropiate. The Commission believes it is reasonable to use a 25-day period for residential customers for three reasons. First, a 25-day period will allow virtually all residential customers to receive income before the next scheduled billing date. The Commission understands that some customers may only receive income once a month; the 25-day period will serve to greatly minimize any gap between the date of income and the next scheduled billing date.

Second, a 25-day period will not unduly delay a utility's receipt of payment. Because a gas or electric utility delivers its services every day to its customers, each month a portion of each customer's bill is for service rendered up to 30 days before. The 25-day period will mean that a customer will have use of the service without paying for no more than 55 days.

Third, a 25-day period will ensure that there will be time for payments made even at the end of the grace period to be posted to the customer's account and appear on the next bill. The Commission believes that a period longer than 25 days would create the possibility that a customer could pay his or her bill at the end of the grace period, but that the utility would not have time to credit the payment on the next bill. In those cases, the customer could have paid in a timely fashion, but still have a late payment charge appear on the next bill. It

is likely that considerable customer confusion and dissatisfaction would result, since the utility would have to remove the late payment charge when it did post the payment to the customer's account. This would mean at best a recomputing of the bill in the next month, and at worst it would be possible for a customer paying on time at the end of the grace period to see a late payment charge on the next bill and to unnecessarily pay that late charge under the mistaken belief that the payment had not been timely. It is reasonable to avoid the potential for customer misunderstanding and error by establishing a grace period that will permit utilities' billing systems to function properly.

In addition, it is necessary to establish the maximum length of time between the current billing date and the date of mailing of the bill. It is reasonable to allow some period of time for preparing and mailing the bill, but it would be unreasonable to allow an overly long period, since that would unreasonably reduce the customer's effective grace period. A three-working-day period is reasonable because it will allow sufficient time for bills to be processed out of the utility's hands, but will not significantly reduce the customer's effective grace period.

B. Nonresidential customer. This subsection establishes a minimum 15-day period during which a non-residential customer may pay a utility bill without a late payment charge. A utility may establish a grace period longer than 15 days for non-residential customers, but may not give them less than 15 days to pay.

It is reasonable to use a 15-day period for non-residential customers because these customers do not have the potential for income timing problems that residential customers do. The Commission believes that a balancing of the interests of the utility in receiving payment for service rendered up to a month before billing, particularly considering the larger amounts generally charged non-residential customers, weighs heavily in favor of a shorter grace period in the absence of the countering income-timing consideration found in the case of residential customers.

A three-working-day limit on the period from current billing date to date of mailing is necessary and reasonable for the reasons discussed under residential customers.

4 MCAR §3.0320 Requirements for imposing late payment charge. This section is necessary to establish the actions a utility must have taken before it can impose a late payment charge on any customers.

A. Tariffs. It is reasonable to require each utility to file and have approved tariffs containing its proposed late payment charge amounts, terms, and conditions so that the Commission can review the tariffs to see that they comply with these rules. If the tariffs do not comply with these rules, the Commission can alter them so they do comply. Once the tariffs are approved, they will be on file with the utility and the Commission for public inspection, so that any interested person can review them easily.

Requiring the filing of proposed tariffs for late payment charges is consistent with the process required by the Commission under Minn. Reg. PSC 175A for all other proposed rates or rules and regulations. Minn. Reg. PSC 175A is based upon M.S. §216B.05, which requires every regulated gas and electric utility

to file with the Commission schedules showing all rates, tolls, and charges which the utility has established, and to file all rules and regulations that, in the judgment of the Commission, affect the utility's service. Clearly, the rates, terms, and conditions of a late payment charge affect the utility's service and fall under M.S. §216B.05.

B. Bill content. This subsection is necessary to comply with the requirements of M.S. §222.75, which states that any public utility that adopts a policy of imposing a charge or fee upon delinquent residential or farm accounts shall provide that each billing shall clearly state the terms and conditions of any penalty in the form of the monthly percentage rate. In addition, it is reasonable to require the same information be available to all other customers who may have a late payment charge imposed upon them.

It is necessary to clearly inform all customers of the date upon which the bill is due so that they can pay the bill on time. It is necessary to inform all customers of the amount of the late payment charge so that they can distinguish the late payment charge from the charges for utility services.

It is reasonable to require this information on each bill so that all customers will have the information before them each time they review a bill. The Commission believes that customers are not likely to remember the exact billing terms and conditions of each utility from which they receive service, and that restating this information is the only way to insure that customers are actually informed of their responsbilities and obligations.

C. Uniformity. This subsection is necessary to ensure that all customers are treated in a non-discriminatory fashion by utilities. M.S. §216B.03 requires that rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory. Further, M.S. §216B.07 requires that no public utility shall make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

It is reasonable to require uniformity in the application of any late payment charge because allowing a utility to impose a late payment charge against only certain customer classes or against only certain customers would be to allow unreasonable discrimination against those classes or customers who would be paying late payment charges when others would be allowed to be delinquent without paying the costs of delinquency. It is reasonable to require late payment charges to be applied consistently to prevent a utility from granting an unreasonable preference on a customer-by-customer basis.

4 MCAR §3.0321 Amount of late payment charge. This section is necessary to establish the method of charging for late payment that utilities must follow. As reported in "Late payment Study for Regulated Utilities in Minnesota" by the Minnesota Department of Public Service, January 1982, the practices of utilities vary tremendously across the state. It is reasonable to establish a statewide ceiling on late payment charges, without requiring any utility to impose a late payment charge, so that any utility that does choose to impose a late payment charge does so in a manner consistent with sound public policy. The Commission believes that public policy requires that customers face similar conditions of service, regardless of their geographic location, whenever possible. While the Commission recognizes that some costs of service vary by location, it believes

that the average cost of late paying customers is sufficiently similar from utility to utility that a maximum charge can be established that will not unduly restrict utilities from recovering the costs of late paying customers while preventing wide disparities between utilities from disadvantaging some customers.

A. Finance fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of money. A utility that does not receive timely payment from its customers must obtain its day-to-day working capital from other sources. This acquisition of short-term capital has a cost associated with it. It is reasonable to allow a utility to recover at least a major portion of this cost from the customers who impose it, rather than from all ratepayers. It is reasonable to set the maximum rate for the cost of money at one and one-half percent per month to be consistent with the interest limits set in M.S. §334.16, subd. 1(b), which governs the rate for open-end credit sales by sellers with less than $25 million of gross annual sales in Minnesota. Even though utilities are not covered by M.S. §334.16, subd. 1(b), the Commission believes consumers are familiar with the interest rate ceiling set therein, and believes they have general acceptance of that limit. Further, it is reasonable to adopt the interest limit that the Legislature has set for the most common consumer transactions as the limit on utility late payment charges in order to avoid the excessively high interest rates found in certain existing utility late payment charges, which are as high as 10% per month.

B. Collection fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's costs of collecting overdue bills. There are costs associated with the preparation and mailing of notices of past-due accounts, as well as other administrative costs of those accounts. It is reasonable to recover those costs, at least in part, from the customers who impose them rather that from all ratepayers. It is reasonable to set the maximum collection fee at $1.00 as a median estimate of those costs, based upon the fact that the range of collection fees of those utilities which charge them is from $.85 to $3.60.

4 MCAR §3.0322 Crediting of payments. This section is necessary to ensure that any payment made by a customer is first used to reduce or eliminate any past-due bill and thereby limit or remove any late payment liability. It is reasonable to require this method of crediting since these rules are designed to allow charges that are compensatory, not punitive.

MAR 14 1983

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

DOCKET NO. G,E-999/R-83-99

I, Karl W. Sonneman, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Karl W. Sonneman
Special Asst. Attorney General

DATED: FEB 16 1984

RC/djs

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

DOCKET NO. E-999/R-83-99

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Rosellen M. Condon, being first duly sworn, deposes and says:

That on the 16th day of February 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Rosellen M. Condon
Rosellen M. Condon

Subscribed and sworn to before me
this 16th day of February 1984.

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMM. EXPIRES FEB. 8, 1990

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Leo G. Adams	Chairman
Harry Seymour Crump	Commissioner
Roger L. Hanson	Commissioner
Terry Hoffman	Commissioner
Cynthia A. Kitlinski	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges	NOTICE OF RESUBMISSION TO THE ATTORNEY GENERAL DOCKET NO. E-999/R-83-99

Pursuant to your request and in accordance with Minnesota Statutes § 14.16 you received notice that the above-captioned rules were submitted to the Office of the Attorney General on February 16, 1984 for review as to form and legality. Due to a routing error, the Office of Attorney General did not receive the above-captioned rules until February 23, 1984.

By letter of March 8, 1984, the Commission withdrew its submission of the above-captioned rule from the Office of the Attorney General for further agency review.

Pursuant to your request and in accordance with Minnesota Statutes, section 14.16:

PLEASE TAKE NOTICE that the above-captioned rules have been resubmitted to the Office of the Attorney General on this date, March 14, 1984, for review as to form and legality. Pursuant to 1 MCAR § 1.206C, the Attorney General will not approve the rules for at least 10 calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, Telephone 612/296-1288. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before resubmission to the Attorney General, you may contact Rosellen Condon at the Commission's office, 780 American Center Building, 160 E. Kellogg Boulevard, St. Paul, Minnesota 55101 or by telephone at 612/296-2357.

The Commission has also issued an Order Adopting the rules, which may be inspected during regular business hours at the Commisson's office or may be purchased at a price of 25¢ a page for a total of $5.00 by contacting Ms. Condon.

Randall D. Young (DLJ)
Randall D. Young
Executive Secretary

SERVICE DATE: MAR 14 1984
RDY/RC/djs

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Leo G. Adams	Chairman
Harry Seymour Crump	Commissioner
Roger L. Hanson	Commissioner
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In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Governing Utility Delinquency Charges

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DOCKET NO. E-999/R-83-99

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Randall D. Young
Executive Secretary

SERVICE DATE: FEB 16 1984
RDY/RC/djs