

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

CONSUMER STANDARDS AND BILLING PRACTICES

FOR ELECTRIC AND GAS RESIDENTIAL SERVICE

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

PART 1. GENERAL PROVISIONS

R 460.2101 Application of rules.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2102 Definitions.

Rule 2. As used in these rules:

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

(i) An incorrect actual meter read.

(ii) An incorrect remote meter read.

(iii) An incorrect calculation of the applicable rate.

(iv) An incorrect connection of the meter.

(v) An incorrect application of the rate schedule.

(vi) Another similar act or omission by the utility in determining the amount of a customer's bill.

An undercharge or overcharge that is caused by a nonregistering meter, a meter error, or the use of an estimated meter read or a customer read is not a billing error.

(b) "Billing month" means a utility service consumption period of not less than 26, nor more than 35, days.

(c) "Charges for tariff service" means the rates for tariff service and other charges authorized by the commission as an integral part of utility service.

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

(e) "Complaint" means a matter that requires follow-up action or investigation by the utility or the commission to resolve the matter.

(f) "Complaint and information officer" means a member of the commission staff who is designated to perform responsibilities in accordance with these rules.

(g) "Complaint determination" means the written decision of a utility hearing officer with respect to an informal hearing.

(h) "Customer" means a purchaser of electricity or natural gas that is supplied by a utility for residential purposes.

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

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

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

(l) "Estimated bill" means a bill for energy usage that is not calculated by employing an actual reading of a meter or other measuring device.

(m) "Gas cost recovery" means the adjustment in rates that is approved by the commission to recognize variations in the cost of purchased gas from a base level.

(n) "In dispute" means that a matter is the subject of an unresolved disagreement, claim, or complaint.

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

(p) "Informal appeal decision" means the written decision of the complaint and information officer with respect to an informal appeal.

(q) "Inquiry" means a matter that is resolved upon the initial contact between the customer and the utility or the customer and the commission.

(r) "Late payment charge" means a finance, service, carrying, or penalty charge that is assessed by a utility because a balance due on a bill is delinquent.

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

(t) "Positive identification information" means a social security number and an identification containing a photograph.

(u) "Power supply cost recovery" means the adjustment in rates that is approved by the commission to recognize variations in the cost of purchased power and fuel for electric generation.

(v) "Previous customer" means a customer who has received the utility's service within the previous 6 years.

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

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

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

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

(aa) "Space heating season" means the period between December 1 and March 31.

(bb) "Termination of service" means a cessation of utility service that is voluntarily requested by a customer.

(cc) "Transmit" means to convey or dispatch.

(dd) "Utility" means a person, firm, corporation, cooperative, association, or other agency that is subject to the jurisdiction of the commission and that distributes and sells electricity or natural gas for residential use.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 4, Eff. Nov.29, 1980; 1979 ACS 8, Eff. Nov. 13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2103 Discrimination prohibited.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

#### R 460.2104 Form of proceedings.

Rule 4. The informal procedures required by these rules shall not constitute a contested case as defined by section 3 of Act No. 306 of the Public Acts of 1969, as amended, being S24.203 of the Michigan Compiled Laws.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC.

R 460.2105 Additional rules.

Rule 5. A utility may adopt additional rules governing relations with its customers that are reasonable and necessary and that are not inconsistent with these rules. The utility's rules shall be an integral part of its tariffs and shall be subject to approval by the commission. If there is a conflict between these rules and a utility's rules or tariffs, these rules govern.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

## PART 2. BILLING AND PAYMENT STANDARDS

R 460.2111 Billing frequency; method of delivery.

Rule 11. A utility shall transmit a bill each billing month to its customers in accordance with approved rate schedules. A utility shall transmit a bill to customers by mail unless the utility and the customer agree in writing to another method of delivery. A utility that is authorized to seasonally bill customers or to use a customer read system shall transmit a bill in accordance with the tariffs approved by the commission.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2112 Estimated billing.

Rule 12. (1) A utility may estimate the bill of a residential customer every other billing month. A utility may estimate the bills more or less often upon a finding by the commission that those procedures assure reasonable billing accuracy. A bill that is rendered on an estimated basis shall be clearly and conspicuously identified as such. A utility shall not render an estimated bill unless the estimating procedures employed by the utility and any substantive changes to those procedures have been approved by the commission.

(2) A utility may render estimated bills to seasonally billed customers in accordance with the tariffs approved by the commission.

(3) Notwithstanding the provisions of subrule (1) of this rule, a utility may estimate the bill of a customer if extreme weather conditions, emergencies, work stoppages, or other circumstances beyond the control of the utility prevent an actual meter reading.

(4) If the utility is unable to gain access to read a meter, then the utility shall use reasonable alternative measures to obtain an actual reading, including mailing or leaving postage-paid, pre-addressed postcards upon which the customer may note the reading. If the customer fails to comply with those alternative measures or makes reading the meter unnecessarily difficult, then the utility may transmit an estimated bill notwithstanding the provisions of subrule (1) of this rule. If a utility cannot obtain an actual reading under this subrule, then the utility shall maintain records of the reasons and its efforts to secure an accurate reading.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2113 Customer meter reading.

Rule 13. A utility shall provide each customer with the opportunity to read and report energy usage as long as the customer reports energy usage on a regular and accurate basis. A utility shall provide postage-paid, pre-addressed postcards for this purpose upon request. At least once every 12 months, a utility shall obtain an actual meter reading of energy usage to verify the accuracy of readings reported in this manner. Notwithstanding the provisions of this rule, a utility may read meters on a regular basis.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.

13, 1981; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2114 Equal monthly billing.

Rule 14. A utility may bill a customer under an equal monthly billing program, at the choice of the customer, upon a finding by the commission that the program assures reasonable billing accuracy. If a customer has a credit balance of more than \$2.00 at the end of the program year, upon the request of the customer, the utility shall return the credit balance.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2115 Cycle billing.

Rule 15. A utility may use cycle billing if each customer receives a bill on or about the same day of each billing month. If a utility changes meter reading routes or schedules, it may change billing cycles upon 10 days' written notice to the affected customers.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2116 Payment of bill.

Rule 16. A utility shall permit each customer a period of not less than 17 days from the date the bill was transmitted to pay in full, unless the customer agrees in writing to a different period.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2117 Payment period.

Rule 17. The date of transmitting a bill is the date the utility mails the bill. For bills that are delivered other than by mail, the date of transmitting a bill is the date that the utility conveys or dispatches the billing information to the customer in accordance with the method of delivery that the customer and the utility agreed to use. If the last day for payments falls on a Sunday, legal holiday, or other day when the offices of the utility regularly used for the payment of customers' bills are not open to the general public, the payment date shall be extended through the next business day.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2118 Allowable charges.

Rule 18. (1) Except as otherwise provided by statute, a utility shall bill each customer for the amount of natural gas or electricity consumed and any other approved charges in accordance with the rates and tariffs approved by the commission.

(2) A utility may assess a late payment charge that is not more than 2%, not compounded, of the portion of the bill, net of taxes, that is delinquent. A utility shall not assess a late payment charge against a customer who is participating in the winter protection plan described in R 460.2174.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 4, Eff. Nov. 29, 1980; 1979 ACS 8, Eff. Nov. 13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2119 Bill information.

Rule 19. A bill that is transmitted by a utility shall state clearly all of the following information:

(a) The beginning and ending meter readings and dates for the billing period. A utility that is authorized to use a customer read system need not provide this information.

(b) The units of energy consumed during the billing period and the units of energy consumed during the comparable period the prior year. A utility may comply with the provisions of this subrule by providing a comparison of energy consumed based on average daily use for the billing period. The commission may exempt a utility from this requirement by order upon a showing by the utility that compliance would be excessively costly or administratively impractical.

(c) A designation of the rate.

(d) The due date.

(e) Any previous balance.

(f) The amount due for energy usage.

(g) The amount due for other authorized charges.

(h) The amount of tax.

(i) The total amount due.

(j) The rate schedules, the explanation of rate schedules, and the explanation of how to verify the accuracy of the bill will be provided upon request.

(k) That the customer should make any inquiry or complaint about the bill before the due date.

(l) The address and telephone number of the utility at which the customer may initiate any inquiry or complaint regarding the bill or the service provided by the utility.

(m) That the utility is regulated by the Michigan public service commission, Lansing, Michigan.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1987 MR 6, Eff. June 24, 1987; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2120 Separate bills.

Rule 20. (1) A utility shall transmit a separate bill in conformity with the provisions of R 460.2119 for service provided at each location and shall not combine 2 or more accounts without written authorization of the customer.

(2) Notwithstanding the provisions of subrule (1) of this rule, if there is shutoff or termination of service at a separate residential metering point, residence, or location in accordance with these rules, then a utility may transfer an unpaid balance to any other residential service account of the customer.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2121 Billing for non-tariff services.

Rule 21. A utility may include charges for non-tariff services together with charges for tariff service on the same monthly bill if the charges for non-tariff services are designated clearly and separately from the charges for tariff service. If partial payment is made, the utility shall first credit payment to the balance outstanding for tariff service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2122 Listing of energy assistance programs.

Rule 22. The commission shall provide, to all utilities, a listing of all federal and state energy assistance programs and the eligibility requirements.

History: 1979 ACS 4, Eff. Nov. 29, 1980; 1992 MR 10, Eff. Oct. 29, 1992.

#### R 460.2123 Notice of energy assistance program.

Rule 23. (1) A utility shall annually inform each customer of the following information:

(a) The federal and state energy assistance programs that are available and the eligibility requirements of the programs, as provided to the utility by the commission.

(b) The winter protection plan described in the provisions of R 460.2174.

(c) The medical emergency provisions of R 460.2153.

(2) The utility shall provide the information required by the provisions of subrule (1) of this rule as an explanation on the customer's bill, a bill insert, or other transmittal. If the utility does not print an explanation on the customer's bill, then the utility shall, on the customer's bill, direct the customer to the bill insert or other transmittal.

History: 1979 ACS 4, Eff. Nov. 29, 1980; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2124 Additional energy assistance programs.

Rule 24. As further information regarding energy assistance programs becomes available, the commission shall provide that information to all utilities. Within 60 days of receiving the information, the utility shall:

(1) Provide further information regarding new eligibility requirements for energy assistance programs to all of its customers.

(2) Provide further information regarding new benefit levels for energy assistance programs to customers currently enrolled in the programs.

History: 1979 ACS 4, Eff. Nov. 29, 1980; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2125 Billing error.

Rule 25. (1) If a utility overcharges a customer due to a billing error, the utility shall refund or credit the amount of the overcharge. A utility is not required to adjust, refund, or credit an overcharge for more than the 3 years immediately preceding discovery of the billing error, unless the customer is able to establish an earlier date for commencement of the error.

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

(a) In cases that involve meter tampering or fraud, the utility may backbill the customer for the amount of the undercharge.

(b) In cases that do not involve meter tampering or fraud, the utility may backbill the customer for the amount of the undercharge during the 12-month period immediately preceding discovery of the error, and the utility shall offer the customer reasonable payment arrangements for the amount of the backbill, taking into account the period of the undercharge.

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

History: 1992 MR 10, Eff. Oct. 29, 1992.

### PART 3. DEPOSITS AND GUARANTEES

R 460.2131 Deposit for new customer.

Rule 31. (1) A utility may require a deposit as a condition of providing service to a new customer due to any of the following provisions:

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

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

(c) The applicant fails to provide complete positive identification information upon request at the time of applying for new service, to the extent a request for such information is not barred by R 460.2133(3).

(d) The applicant, in an unauthorized manner, used, diverted, or interfered with the service of the utility situated or delivered on or about the applicant's premises within the last 6 years, if the finding of

unauthorized use, diversion, or interference is made after notice and an opportunity for a hearing under these rules.

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

(f) The applicant was a household member during a period in which all or part of a delinquent service account was accrued by another household member who currently resides with the applicant, if, at the time of the request for service, the account remains unpaid and is not in dispute.

(g) The applicant is unable to provide prior utility service history information with any regulated or unregulated utility in Michigan or elsewhere during the last 6 years and has an unfavorable commercial credit rating caused by 3 or more delinquent payments of more than 60 days in the last 2 years.

(h) A receiver has been appointed in a court proceeding within the last 6 years.

(i) As allowed by federal bankruptcy law, the applicant has sought relief under federal bankruptcy laws within the last 6 years.

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

(a) The family independence agency is responsible for making monthly payments to a utility on behalf of the applicant.

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

(c) None of the conditions described in subrule (1) of this rule applies to the applicant.

(d) The applicant is over 65 years of age and has no negative credit history with any gas or electric provider.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2132 Deposit for previous customer or continued service.

Rule 32. (1) A utility may require a deposit as a condition of providing or restoring service to a previous customer or continuing service to a current customer if the customer has an unsatisfactory credit standing with the utility due to any of the following:

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

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

(c) The customer or applicant fails to provide complete positive identification information upon request at the time of applying for service, to the extent that a request for such information is not barred by R 460.2133(3).

(d) The customer or applicant, in an unauthorized manner, used, diverted, or interfered with the service of the utility situated or delivered on or about the customer's or applicant's premises within the last 6 years, if the finding of unauthorized use, diversion, or interference is made after notice and an opportunity for a hearing under these rules and is not in dispute.

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

(f) The utility has had 1 or more checks for the customer's account returned from a bank within the last 12 months for insufficient funds or no account, excluding bank error.

(g) A receiver has been appointed in a court proceeding within the last 6 years.

(h) As allowed by federal bankruptcy law, the applicant has sought relief under federal bankruptcy laws within the last 6 years.

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

(a) The family independence agency is responsible for making monthly payments to a utility on behalf of the applicant.

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

(c) The customer or applicant has none of the conditions described in subrule (1) of this rule.

(d) The applicant is over 65 years of age and has no negative credit history with any gas or electric provider.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2133 Prohibited practices.

Rule 33. (1) A utility shall not require a deposit or other guarantee as a condition of new or continued utility service based upon any of the following:

(a) Commercial credit standards, if the customer or applicant has prior utility service credit history with any electric or gas provider in Michigan or elsewhere during the previous 6 years.

(b) Income.

(c) Home ownership.

(d) Residential location.

(e) Race.

(f) Color.

(g) Creed.

(h) Sex.

(i) Age.

(j) National origin.

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

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

(3) A utility shall not require a customer or applicant who has prior utility service history with any electric or gas provider in Michigan or elsewhere during the previous 6 years to provide the utility with his or her social security number as a condition of obtaining or continuing a utility service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2134 General deposit conditions.

Rule 34. (1) (A) A deposit that is required under these rules due to a prior outstanding account that is not in dispute or a shutoff for nonpayment shall not be more than twice the average peak season monthly bill for the premises or twice the utility's system average peak season monthly bill for residential service if consumption history for the premises is unavailable. The utility may also require payment of the delinquent account as a condition of providing or continuing service if the prior account is in the customer's or applicant's name, is delinquent and owed to the utility, and accrued within the last 6 years.

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

(2) Unless the applicant misrepresents his or her identity or credit standing or fails to provide positive identification, if requested, at the time of applying for service, the utility shall, within 30 days after the applicant applies, decide whether to require a deposit.

(3) Except in the case of unauthorized use, diversion, or interference, if the utility shuts off service for nonpayment, then the utility shall not require a deposit as a condition of restoring service unless the utility offered the customer, prior to shutoff for nonpayment, the opportunity to enter into a settlement agreement as provided in part 6 of these rules.

(4) A utility shall pay interest at the rate of 9% per annum on all deposits. A utility shall credit interest semiannually to the service account of the customer or pay it upon the return of the deposit, whichever occurs first.



(5) The customer's credit shall be established and the utility shall return the deposit and accrued interest upon satisfactory payment by the customer of all proper charges for utility service for a period of 12 consecutive months. A utility may retain the deposit because of unauthorized use, diversion, or interference for a period of 24 months and shall refund the deposit upon satisfactory payment of the final 12 months' charges.

(6) For purposes of this rule, payment is satisfactory if it is made before the issuance of the notice of shutoff of service for nonpayment that is not in dispute or within 3 days after the issuance of the next succeeding monthly bill, whichever is sooner.

(7) If the utility has not already returned the deposit, the utility shall credit the deposit, with accrued interest, to the final bill. A utility may apply the deposit against an existing arrearage that is not in dispute. The utility shall promptly return the balance to the customer.

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

(a) The name of the residential customer.

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

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

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

(9) If a customer makes a deposit, then the utility shall provide, in writing, a receipt that contains all of the following information:

(a) Name of customer.

(b) Place of payment.

(c) Date of payment.

(d) Amount of payment.

(e) Identifiable name and signature of the utility employee who receives the deposit.

(f) The terms and conditions governing the receipt, retention, and return of the deposit.

(10) A utility shall provide a means by which a customer who is entitled to the return of his or her deposit is not deprived of the deposit even though he or she may be unable to produce the original receipt for the deposit.

(11) A utility shall apply deposit standards uniformly to all customers.

(12) For purposes of this rule, both of the following provisions apply:

(a) The premises's average peak season monthly bill is defined as the highest 5 consecutive month period of consumption at the premises within the previous 12-month period, divided by 5, priced at current rates.

(b) The utility's system average peak season monthly bill is defined as the average peak season monthly bill computed for all residential premises on the utility's system.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2135 Rescinded.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1984 MR 4, Eff. Apr.19, 1984; rescinded 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar.17, 2000; rescinded 2001 MR 14, Eff. Jul. 24, 2001.

R 460.2136 Guarantee terms and conditions.

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

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

(3) A utility may retain a guarantee resulting from unauthorized use, diversion, or interference for 24 months and shall release the guarantor upon satisfactory payment of the final 12 months' charges.

(4) For purposes of this rule, payment is satisfactory if it is made before the issuance of a notice of shutoff of service for nonpayment that is not in dispute or within 3 days after the issuance of the next succeeding monthly bill, whichever is sooner.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1984 MR 4, Eff. Apr.19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2137 Rescinded.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; rescinded 1992 MR 10, Eff. Oct. 29, 1992.

#### PART 4. UTILITY PROCEDURES

R 460.2141 Applicability.

Rule 41. These procedures apply to all customer inquiries, service requests, and complaints that are made to a utility regarding residential utility service and charges.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2142 Complaint procedures.

Rule 42. (1) A utility shall establish procedures that will ensure the prompt, efficient, and thorough receipt, investigation, and, where possible, resolution of all customer inquiries, service requests, and complaints.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2143 Personnel procedures.

Rule 43. A utility shall establish personnel procedures that, at a minimum, ensure all of the following:

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

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

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

(d) That the names, addresses, and telephone numbers of personnel who are designated and authorized to receive and respond to the requests and directives of the commission regarding customer inquiries, service requests, and complaints are current and on file with the commission.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2144 Utility hearing officers.

Rule 44. (1) A utility shall employ or contract with competent utility hearing officers, who shall be notaries public and qualified to administer oaths, and other supporting personnel as necessary to comply with the provisions of part 6 of these rules.

(2) Utility hearing officers who are employed or contracted to comply with the provisions of part 6 of these rules shall not engage in any other activities for or on behalf of the utility.

(3) Utility hearing officers and utility hearing procedures shall be subject to investigation and review by the commission to ensure the impartiality and integrity of the hearing process.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2145 Publication of procedures.

Rule 45. (1) A utility shall prepare a pamphlet that, in easily understood terms, summarizes the rights and responsibilities of its customers in accordance with these rules and other applicable provisions of statutes, rules, and tariffs.

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

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

(a) Billing procedures and estimation standards.

(b) Methods for customers to verify billing accuracy.

(c) An explanation of the power supply cost recovery or gas cost recovery program.

(d) Customer payment standards and procedures.

(e) Security deposit and guarantee standards.

(f) Shutoff and restoration of service.

(g) Inquiry, service, and complaint procedures.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2146 Access to rules and rates.

Rule 46. (1) A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days of commencing service, within 60 days after issuance of a new rate case order, and at least once each year, the following information:

(a) A clear and concise explanation of all rates for which that customer may be eligible.

(b) A notice that complete rate schedules are available upon request.

(c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

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

(a) A notice that complete rate schedules are available upon request.

(b) A notice that a clear and concise explanation of all rates for which that customer may be eligible is available upon request.

(c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

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

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

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

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

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

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

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

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

(5) A utility, including a rural electric cooperative, shall provide the notice required by the provisions of this rule either through a publication that is transmitted to each of its customers or by a bill insert.

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

(a) A copy of these rules.

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

(c) Schedules of all residential rates and charges.

(d) Proposed rate schedules.

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

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

(7) A utility shall post suitable signs in conspicuous locations at all bill payment offices that are operated by the utility calling attention to the fact that the rules, regulations, rate schedules, proposed rate schedules, explanations of rate schedules, and explanations of proposed rate schedules are on file and available for inspection. Upon request, a utility shall provide 1 copy of these rules, explanations, or schedules to a customer without charge.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1987 MR 6, Eff. June 24, 1987; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2147 Reporting requirements.

Rule 47. Upon request, a utility shall file with the commission, a report that contains detailed information concerning all of the following:

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

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

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

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

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

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2148 Inspection.

Rule 48. A utility shall permit authorized staff of the commission to inspect all of the utility's operations that relate to customer service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

#### R 460.2149 Customer access to consumption data.

Rule 49. A utility shall provide to each customer, upon request, a clear and concise statement of the customer's actual energy usage, or degree-day adjusted energy usage, for each billing period during the

last 12 months unless that data is not reasonably ascertainable by the utility. A utility shall notify its customers at least once each year that a customer may request consumption data.

History: 1987 MR 6, Eff. June 24, 1987; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2150 Application for service.

Rule 50. (1) Unless the applicant has had one or more shutoffs, a utility shall not require other adults who will be residing at the premises for which service is requested to sign an application for service. A utility shall permit more than 1 name on the application if requested by the customer.

(2) If the applicant is renting the premises for which service is requested, a utility may require proof that the applicant is a tenant. Written or oral confirmation by the manager, landlord, or owner of the property or a copy of the lease submitted by the manager, landlord, or owner of the property is sufficient proof.

History: 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### PART 5. PHYSICAL SHUTOFF OF SERVICE

R 460.2151 Time of shutoff.

Rule 51. (1) Subject to the requirements of these rules, a utility may shut off service to a customer on the date specified in the notice of shutoff or at a reasonable time following that date. If a utility does not shut off service and mails a subsequent notice, then the utility shall not shut off service before the date specified in the subsequent notice. Shutoff shall occur only between the hours of 8 a.m. and 4 p.m.

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

(3) A utility shall not shut off service for an amount that is in dispute while a customer is awaiting the resolution of a complaint with the commission or the utility in accordance with these rules.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2152 Manner of shutoff.

Rule 52. (1) At least 1 day preceding shutoff of service, the utility shall make not less than 2 attempts to contact the customer by telephone if a telephone number is accessible to the utility to advise the customer of the pending action and what steps the customer must take to avoid shutoff. The utility shall either document all attempts to contact the customer or shall document that automated procedures are in place that will make at least 2 attempts to contact the customer by telephone.

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

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

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

(5) The customer may pay in any reasonable manner, including personal check. Payment by personal check is not reasonable if the customer has paid with a personal check within the last 12 months and the check has been returned for insufficient funds or no account, excluding bank error.

(6) If the customer or another responsible person is not at the premises and the utility has not made the prior telephone contact provided in subrule (1) of this rule, the employee shall leave notice, in a manner that is conspicuous to the customer, that service will be shut off on or after the next business day unless the customer satisfies the outstanding claims. If the customer or another responsible person is not at the premises and the utility has made prior telephone contact with the customer or another responsible person, the employee may shut off service immediately.

(7) If the customer or another responsible person is not at the premises upon the return of the employee, or upon the first visit if the customer or another responsible person does not respond when it reasonably appears that he or she is at the premises, the employee may shut off service.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov. 13, 1981; 1992 MR 10, Eff. Oct. 29, 1992.

#### R 460.2153 Medical emergency.

Rule 53. Notwithstanding any other provision of these rules, a utility shall postpone the shutoff of service for a reasonable time, but not for more than 21 days, if the customer produces a physician's certificate or notice from a public health or social services official stating that the shutoff of service will aggravate an existing medical emergency of the customer, a member of his or her family, or another permanent resident of the premises. The certificate shall identify the medical emergency and specify the period of time during which shutoff will aggravate the emergency. The utility shall extend the postponement for further periods of not more than 21 days, not to exceed a total postponement of shutoff of service of 63 days, only if the customer produces a physician's certificate. If shutoff of service has occurred without any postponement being obtained, the utility shall restore service for a reasonable time, but not for more than 21 days, and shall continue the restoration for further periods of not more than 21 days, not to exceed a total restoration of service of 63 days, only upon the customer providing a physician's certificate.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

#### R 460.2154 Restoration of service.

Rule 54. (1) After a utility has shut off service, it shall restore service promptly upon the customer's request when the cause has been cured or credit arrangements satisfactory to the utility have been made.

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

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov. 13, 1981; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

#### R 460.2155 Charges for meter relocation.

Rule 55. A utility may assess a meter relocation charge pursuant to the provisions of R 460.2154(3) in any of the following situations:

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

(b) The utility shut off service for nonpayment on 2 prior occasions.

(c) The customer or another responsible adult refused to permit the utility access to the meter on 5 separate occasions and all of the following provisions apply:

- (i) The utility can produce documentation of written requests for access.
- (ii) The utility determines that the account is 3 or more months in arrears and is not in dispute.
- (iii) The utility has employed reasonable efforts to secure access to the meter.
- (d) The utility shut off service due to unauthorized use, diversion, or interference, or the customer acknowledges personal responsibility and the utility bills him or her for unauthorized use, diversion, or interference.

History: 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

## PART 6. PROCEDURES FOR SHUTOFF OR TERMINATION OF SERVICE

R 460.2161 Shutoff permitted.

Rule 61. Subject to the requirements of these rules, a utility may shut off or terminate service to a residential customer for any of the following reasons:

- (a) The customer has not paid a delinquent account that accrued within the last 6 years.
- (b) The customer has failed to provide a deposit or guarantee permitted by these rules.
- (c) The customer or others have caused the unauthorized use, diversion, or interference with the utility service situated or delivered on or about the customer's premises.
- (d) The customer has failed to comply with the terms and conditions of a settlement agreement.
- (e) The customer has refused to arrange access at reasonable times for the purpose of inspection, meter reading, maintenance, or the replacement of equipment that is installed upon the premises.
- (f) The customer has misrepresented his or her identity for the purpose of obtaining utility service.
- (g) The customer has violated any rules of the utility approved by the commission so as to adversely affect the safety of the customer or other persons or the integrity of the utility system.
- (h) A current member of the customer's household has not paid a delinquent account for service that is not in dispute and that is owed by that person, if the customer lived at the same residence served by the utility at the time that all or part of the debt was incurred by the current member of the customer's household. This subdivision shall not apply if the utility holds a deposit pursuant to the provisions of R 460.2131(1)(e).
- (i) The customer has requested the termination of service. The utility shall make reasonable efforts to determine that the customer of record has authorized the termination of service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2162 Shutoff prohibited.

Rule 62. A utility shall not shut off service for any of the following reasons:

- (a) The customer has not paid for items, such as merchandise, appliances, or services, that are not approved by the commission as an integral part of the utility service that is provided by the utility.
- (b) The customer has not paid for concurrent service received at a separate metering point, residence, or location.
- (c) The customer has not paid for a different class of service received at the same or a different location. The placing of more than 1 meter at the same location for the purpose of billing the usage of specific residential energy-using devices under optional rate schedules or provisions is not a different class of service for the purposes of this rule.
- (d) The customer, such as a landlord, has not paid for service used by another person, such as a tenant. A utility may shut off service, however, in any of the following circumstances:
  - (i) If the customer supplies a written statement under oath that the premises are unoccupied.
  - (ii) If the premises are occupied and the occupant agrees, in writing, to the shutoff of service.
  - (iii) If it is not feasible to provide service to the occupant as a customer without a major revision of existing distribution facilities. Where it is feasible to provide service, the utility, after providing

notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant refuses, the utility may shut off service pursuant to these rules.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1954 ACS 99, Eff. May 12, 1979; 1979 AC; 1979 ACS 4, Eff. Nov. 29, 1980; 1984 MR 4, Eff. Apr. 19, 1984; 1992 MR 10, Eff. Oct. 29, 1992.

#### R 460.2163 Notice of shutoff.

Rule 63. (1) A utility shall not shut off service pursuant to the provisions of R 460.2161 unless it transmits a notice, by first-class mail, to the customer or personally serves the notice not less than 10 days before the date of the proposed shut off. The utility shall send notice to the account name and address and to the address where service is provided if the service address is different and the transmittal can be delivered at that address. A utility shall maintain a record of the date of transmittal.

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

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1954 ACS 99, Eff. May 12, 1979; 1979 AC; 1979 ACS 4, Eff. Nov. 29, 1980; 1979 ACS 8, Eff. Nov. 13, 1981; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2164 Form of notice.

Rule 64. A notice of shutoff of service shall contain all of the following information:

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

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

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

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

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

(f) That the customer has the right to request a hearing before a utility hearing officer if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 3 days of the date that the customer requested a hearing.

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

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

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

(j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for emergency economic assistance.

(k) That the utility will postpone the shutoff of service if a medical emergency exists at the customer's residence.

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

(m) That the customer should contact the utility for information about the winter protection plan if the date on or after which shutoff of service may occur is between November 15 and March 31.



History: 1954 ACS 81, Eff. Mar. 5, 1975; 1954 ACS 99, Eff. May 12, 1979; 1979 AC; 1979 ACS 8, Eff. Nov. 13, 1981; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2165 Disputed claim.

Rule 65. (1) If a customer advises a utility, before the date of the proposed shutoff of service, that all or part of a bill is in dispute, then the utility shall do all of the following:

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

(b) Investigate the dispute promptly and completely.

(c) Advise the customer of the results of the investigation.

(d) Attempt to resolve the dispute informally in a manner that is satisfactory to both parties.

(e) Provide the opportunity for the customer to settle the disputed claim or to satisfy any liability that is not in dispute.

(2) A customer may advise a utility that a claim is in dispute in any reasonable manner, such as by written notice, in person, or by a telephone call directed to the utility.

(3) A utility, in attempting to resolve the dispute, may employ telephone communication, personal meetings, on-site visits, or any other technique that is reasonably conducive to dispute settlement.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2166 Hearing.

Rule 66. If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for a hearing before a utility hearing officer. If the customer fails to request a hearing within 3 days of the date that the opportunity for hearing is offered, or if the customer fails to pay the part of the bill that is not in dispute within 3 days of the date that he or she requests the hearing, the utility may exercise its right to shut off service pursuant to these rules.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2167 Payment of amount not in dispute.

Rule 67. (1) If a customer requests a hearing before a utility hearing officer, the customer shall cooperate in the utility's investigation of the complaint and shall pay to the utility the part of the bill that is not in dispute.

(2) The amount that is not in dispute shall be mutually determined by the parties. The parties shall consider the customer's prior consumption history, weather variations, the nature of the dispute, and any other pertinent factors.

(3) If the parties are unable to mutually determine the amount that is not in dispute, the customer shall pay, to the utility, 50% of the bill in dispute, but not more than \$100.00 per billing period. If the bill in dispute includes usage that has not been previously billed, such as a backbilling, the customer shall pay, to the utility, the amount that is not in dispute for usage not previously billed or 50% of the amount in dispute for usage not previously billed, but not more than \$100.00 for the amount not previously billed.

(4) The amount that is not in dispute shall be subject to review at the hearing before the utility hearing officer in accordance with the provisions of R 460.2169.

(5) If the customer fails to pay the amount that is not in dispute within 3 days of the date that he or she requests a hearing, the customer waives the right to the hearing and the utility may shut off service as provided in part 5 of these rules.

(6) If the dispute is ultimately resolved in favor of the customer, in whole or in part, the utility shall return promptly any excess amount paid by the customer, with interest at the rate specified pursuant to the provisions of R 460.2134(4).

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2168 Notice of hearing.

Rule 68. (1) The utility shall transmit or personally serve the customer with written notice of the time, date, and place of the hearing not less than 10 days before the hearing.

(2) The notice shall describe the hearing procedures as contained in these rules.

(3) Failure of the customer or the utility to attend the hearing without a good reason or without having requested an adjournment constitutes a waiver of the right of that party to the hearing.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

R 460.2169 Hearing procedures.

Rule 69. (1) A utility shall establish hearing procedures that, at a minimum, provide the customer and the utility with all of the following rights:

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

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

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

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

(2) A hearing shall be held during normal business hours. A utility shall take reasonable steps to ensure that a customer who is unable to attend a hearing due to physical incapacity is not denied the right to a hearing.

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

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

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

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

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

(b) A concise statement, in writing, of the position of the customer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov. 13, 1981; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2170 Settlement agreement.

Rule 70. (1) If the utility and the customer arrive at a mutually satisfactory settlement of a claim in dispute or if the customer does not dispute liability to the utility, but claims the inability to pay the outstanding bill in full, then a utility shall offer the customer the opportunity to enter into a settlement agreement.

(2) A settlement agreement shall be in writing and signed by the customer or his or her authorized representative and an authorized representative of the utility. The utility shall confirm, in writing, a settlement reached by telephone and shall transmit the settlement to the customer with instructions to sign a confirming copy and return it in a postage-paid, self-addressed envelope. The utility shall retain the original settlement agreement for 2 years.

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

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

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

(5) A settlement agreement that is offered by a utility shall state, immediately preceding the space provided for the customer's signature and in bold print that is not less than 2 sizes larger than any other print that is used on the form: "IF YOU ARE NOT SATISFIED WITH THIS AGREEMENT, DO NOT SIGN. YOU MAY FILE AN INFORMAL COMPLAINT AND HAVE A HEARING BEFORE A UTILITY HEARING OFFICER BEFORE YOUR SERVICE MAY BE SHUT OFF. IF YOU DO SIGN THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO AN INFORMAL HEARING BEFORE A UTILITY HEARING OFFICER ON ANY MATTER INVOLVED IN THIS DISPUTE EXCEPT THE UTILITY'S FAILURE OR REFUSAL TO FOLLOW THE TERMS OF THIS AGREEMENT."

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992; 2000 MR 3, Eff. Mar. 17, 2000.

#### R 460.2171 Default of settlement agreement.

Rule 71. (1) If a customer fails to comply with the terms and conditions of a settlement agreement, a utility may shut off service after giving the customer a notice, by personal service or first-class mail, that contains all of the following information:

- (a) That the customer is in default of the settlement agreement.
- (b) The nature of the default.
- (c) That unless the customer pays in full within 10 days of the date of mailing, the utility may shut off service.

- (d) The date on or after which the utility may shut off service.
  - (e) That the customer has a right to request a hearing before a utility hearing officer only if the customer alleges that the utility has failed or refused to follow the terms of the settlement agreement.
  - (f) The address and telephone number where the customer may file the request for a hearing with the utility.
- (2) A utility is not required to enter into a subsequent settlement agreement with a customer until he or she has complied fully with the terms of a previous settlement agreement.
- (3) A utility is not required to enter into a subsequent settlement agreement with a customer who defaulted on the terms and conditions of an agreement within the last 2 years.
- (4) If the customer and utility reach a settlement agreement following a notice of shutoff, the failure of the customer to abide by the terms of the settlement agreement during the first 60 days of the agreement constitutes a waiver of the notice required by subrule (1) of this rule. The utility may shut-off service after notice as described in the provisions of R 460.2152.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2172 Same dispute.

Rule 72. A utility may disregard a customer complaint or dispute that involves the same question or issue based upon the same facts, and is not required to comply with these rules more than once before shutoff of service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2173 Emergency shutoff.

Rule 73. Notwithstanding any other provision of these rules, a utility may shut off service temporarily for reasons of health or safety or in a state or national emergency. When a utility shuts off service for reasons of health or safety, the utility shall leave a notice in accordance with the provisions of R 460.2152(8).

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2174 Winter protection plan.

Rule 74. (1) As used in this rule:

- (a) "Eligible customer" means either an eligible low-income customer or an eligible senior citizen customer.
- (b) "Eligible low-income customer" means a utility customer whose household income does not exceed 150% of the poverty level, as published by the United States department of health and human services, or who receives any of the following:
  - (i) Supplemental security income, aid to families with dependent children, or general assistance.
  - (ii) Food stamps.
  - (iii) Medicaid.
- (c) "Eligible senior citizen customer" means a utility customer who is 65 years of age or older and who advises the utility of his or her eligibility.

(2) A utility shall not shut off service to an eligible customer during the space heating season for nonpayment of a delinquent account if the customer is an eligible senior citizen customer or if the customer pays to the utility a monthly amount equal to 7% of the estimated annual bill for the eligible customer and the eligible customer demonstrates, within 14 days of requesting shutoff protection, that he or she has made application for state or federal heating assistance. If an arrearage exists at the time an eligible customer applies for protection from shutoff of service during the space heating season, the

utility shall permit the customer to pay the arrearage in equal monthly installments between the date of application and the start of the subsequent space heating season.

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

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

(a) That the customer has defaulted on the winter protection plan.

(b) The nature of the default.

(c) That unless the customer makes the payments that are past due under this rule within 10 days of the date of mailing, the utility may shut off service.

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

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

(f) That the customer has the right to request a hearing before a utility hearing officer if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 3 days of the date that the customer requests a hearing.

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

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

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

(j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for emergency economic assistance.

(k) That the utility will postpone shutoff of service if a medical emergency exists at the customer's residence.

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

(5) At the conclusion of the space heating season, the utility shall reconcile the accounts of eligible customers and permit customers to pay any amounts owing in equal monthly installments between April 1 and December 1. A utility may shut off service to eligible customers who fail to make installment payments on a timely basis in the manner required by these rules. At the option of the customer, between April 1 and November 30, the customer may choose to pay 9% of the estimated annual bill each month together with the monthly installment for any preenrollment arrearage instead of the amount otherwise owing for actual and reconciled past due amounts. After November 30, the utility shall reconcile the account of any customer who has chosen and fulfilled the obligations of the 9% option by refunding any net overcollection or adding any net undercollection to the customer's arrearage for the upcoming space heating season. If a customer fails to make all payments that are required pursuant to the 9% option, the utility may immediately reconcile his or her account by refunding any net overcollection or by adding any net undercollection to the customer's current bill.

(6) A utility shall not require an eligible low-income customer whose utility service has been shut off before applying for protection under this rule to pay a fee for restoring service or a security deposit pursuant to the provisions of R 460.2132 during the space heating season. A utility may not require an amount greater than one-twelfth of an arrearage owing in order to restore service or initiate participation in the winter protection plan. The 7% payment shall be billed according to normal billing procedures for the utility.

(7) An eligible low-income customer may preenroll in the winter protection plan between November 15 and November 30 by paying the current usage plus 1/12 of any arrearage and agreeing to the terms of the winter protection plan for the upcoming space heating season. An eligible senior citizen customer may preenroll by advising the utility of his or her eligibility. A preenrolled customer shall not have his or her service terminated before the commencement of the winter protection

plan. A customer who is off service as of November 15 shall be eligible to preenroll in the winter protection plan and have service restored immediately after fulfilling the requirements for preenrollment. Further, an off service low-income customer who applies during the preenrollment period shall be entitled to have all deposits and reconnection fees waived.

History: 1992 MR 10, Eff. Oct. 29, 1992.

## PART 7. COMMISSION APPEAL PROCEDURES

R 460.2181 Informal appeal.

Rule 81. Within 7 days after a utility hearing officer issues a written complaint determination, either party may make an informal appeal to the commission staff.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2182 Filing procedures.

Rule 82. (1) A party may make an informal appeal in any reasonable manner. The informal appeal need not be in writing and may be initiated by telephone or in person at the offices of the commission.

(2) A written appeal need not be verified.

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

(a) Name and address of the customer.

(b) Name of the utility involved.

(c) The nature of the original complaint in a clear and concise manner.

(d) The relief requested.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2183 Exhaustion of remedies.

Rule 83. The commission staff may require a customer to pursue remedies directly with the utility as provided in these rules before accepting an informal appeal. The commission may waive this rule when circumstances require.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2184 Informal appeal procedures.

Rule 84. (1) The commission staff shall assign the informal appeal to a complaint and information officer or another employee of the commission as the commission may designate. The officer or designated employee shall reduce the appeal to writing and shall have all of the following responsibilities:

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

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

(c) Issuing interim determinations as necessary.

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

(e) Issuing an informal appeal decision.

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

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2185 Interim determination.

Rule 85. (1) After receiving the hearing record and pending the final resolution of an informal appeal, the complaint and information officer or designated employee may issue an interim determination with appropriate terms and conditions. In the case of an appeal regarding a bill or deposit, the complaint and information officer or designated employee may require a customer to pay the undisputed portion of a claim in order to continue the prohibition against the shutoff of service as provided in these rules. The complaint and information officer or designated employee may consider the amounts that reasonably appear to reflect the cost of utility service in determining the undisputed portion of a claim.

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

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2186 Appeal review.

Rule 86. The complaint and information officer or designated employee shall review the informal appeal thoroughly and, when necessary, conduct further investigation. A party may offer new evidence if the complaint and information officer or designated employee determines that it is relevant and could not have been offered at the hearing before the utility hearing officer through the exercise of due diligence by the offering party. When further investigation is necessary, the complaint and information officer or designated employee may request additional evidence or, at his or her own initiative, may hold an informal conference with the parties or their representatives at a time and place designated by the officer or employee. If either party fails to appear at the informal conference without a good reason or without having requested an adjournment, the right of the absent party to appear at the conference shall be waived. At an informal conference, the parties shall have the right to do all of the following:

- (a) Represent themselves, to be represented by counsel, or to be assisted by other persons of their choice.
- (b) Present oral and documentary evidence.
- (c) Refute, in a reasonable manner, the evidence of the other party.
- (d) Submit an oral or written statement of position.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2187 Shutoff pending decision.

Rule 87. A utility shall not shut off service or issue a notice of shutoff related to the matter in dispute pending the decision of the commission staff, except pursuant to the terms of an interim determination.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2188 Informal appeal decision.

Rule 88. The complaint and information officer or other employee so designated by the commission shall, within 30 days after the utility files the certified record, issue a written informal appeal decision affirming, modifying, or reversing the complaint determination. In reversing or modifying the complaint determination, the decision shall set forth the terms and conditions for continued service, shutoff, or a proposed settlement agreement as required by the facts and circumstances. The decision shall state the relevant findings of fact and the reasons for the decision.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1979 ACS 8, Eff. Nov.13, 1981; 1992 MR 10, Eff. Oct. 29, 1992.

R 460.2189 Failure to comply with informal appeal decision.

Rule 89. A copy of the informal appeal decision shall be served personally or by first-class mail on the parties. Failure of either party to comply with the decision within 10 days from the date of service by mailing shall permit implementation of the action or remedy provided by the decision.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2190 Same dispute.

Rule 90. The commission staff may dismiss a subsequent informal appeal that involves the same question or issue based upon the same facts without following every procedure set forth in these rules.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2191 Formal appeal.

Rule 91. Either party may appeal the decision of the complaint and information officer or designated employee by filing a formal complaint in accordance with the rules of practice and procedure before the commission. A party may proceed in accordance with the terms of the informal appeal decision unless otherwise ordered by the commission or the presiding officer who is assigned to the formal complaint.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2192 Other remedies.

Rule 92. Nothing in these provisions shall be construed to prevent a party from pursuing appropriate legal and equitable remedies at any time before or after the issuance of any informal appeal decision.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC; 1992 MR 10, Eff. Oct.29, 1992.

R 460.2199 Rescission.

Rule 99. Rules 6, 25, 27, 28, 31 to 35 of the Standards of Gas Service being R 460.896, R 460.915, R 460.917, R 460.918, R 460.921 to R 460.925 of the Michigan Administrative Code and appearing on pages 6095 and 6101 to 6103 of the 1954 volume of the Code and rules 5, 7, 8, 10, 11, 14 to 17 and 28 of the Rules of Electric Service, being R 460.501, R 460.502 and R 460.504 of the Michigan Administrative Code and appearing on pages 5788 to 5792 of the 1954 volume of the Code, are rescinded insofar as they apply to electrical and gas residential utility service.

History: 1954 ACS 81, Eff. Mar. 5, 1975; 1979 AC.