

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

CONSUMER STANDARDS AND BILLING PRACTICES
FOR ELECTRIC AND GAS RESIDENTIAL SERVICE

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These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 7 of Act No. 106 of the Public Acts of 1909, as amended, section 5 of Act No. 419 of the Public Acts of 1919, as amended, sections 4 and 6 of Act No. 3 of the Public Acts of 1939, as amended, and sections 3, 9, and 231 of Act No. 380 of the Public Acts of 1965, as amended, being §§460.557, 460.55, 460.4, 460.6, 16.103, 16.109, and 16.331 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 460.2102 Definitions.

Rule 2. As used in these rules:

(a) "Billing error" means an undercharge or overcharge that is caused by an incorrect actual meter read, an incorrect remote meter read, an incorrect calculation of the applicable rate, an incorrect connection of the meter, an incorrect application of the rate schedule, or 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.

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(j) "Delinquent account" means any charges for utility service that remain 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.

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. Bills shall be transmitted 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.

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, 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, the utility may transmit an estimated bill notwithstanding the provisions of subrule (1) of this rule. When a utility cannot obtain an actual reading under this subrule, the utility shall maintain records of the reasons and its efforts to secure an accurate reading.

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.

R 460.2117 Payment period.

Rule 17. The date of transmitting a bill shall be the date the utility mails the bill. For bills that are delivered other than by mail, the date of transmitting a bill shall be 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.

R 460.2119 Bill information.

Rule 19. A bill that is transmitted by 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, an explanation of rate schedules, and an explanation of how to verify the accuracy of the bill 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.

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, in the event of shutoff or termination of service at a separate residential metering point, residence, or location in accordance with these rules, a utility may transfer an unpaid balance to any other residential service account of the customer.

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.

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 those 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, the utility shall, on the customer's bill, direct the customer to the bill insert or other transmittal.

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.

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:

(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 pursuant to 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.

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 pursuant to 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 apply:

(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 (1).

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

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.

R 460.2134 General deposit conditions.

Rule 34. (1) (a) A deposit that is required pursuant to 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 shut off service for nonpayment, the utility shall not require a deposit as a condition of restoring service unless the utility

offered the customer, prior to shutoff for nonpayment, the opportunity to enter into a settlement agreement as provided in part 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 a 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 a deposit because of unauthorized use, diversion, or interference for a period of 24 months and shall refund it 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 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.

(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 a 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) When a customer makes a deposit, 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.

R 460.2135 Uncollectibles allowance recovery fund.

Rule 35. (1) A utility shall establish and administer an uncollectibles allowance recovery fund.

(2) A utility shall annually deposit into its uncollectibles allowance recovery fund the difference between the uncollectibles provision as recorded on the utility's financial records for 1999 less the provision as recorded on the utility's financial records in each subsequent fiscal year.

(3) A utility shall annually disburse the funds placed into its uncollectibles allowance recovery fund according to the following formula:

(A) Twenty-five percent (25%) shall be retained by the utility.

(B) Seventy-five percent (75%) shall be contributed to the Michigan Clean Air Fund of the Department of Environmental Quality for use in programs or projects established to reduce oxides of nitrogen and volatile organic compounds.

PART 4. UTILITY PROCEDURES

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.

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, a clear and concise explanation of all rates for which that customer may be eligible, a notice that complete rate schedules are available upon request, and 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, notice that complete rate schedules are available upon request, a notice that a clear and concise explanation of all rates for which that customer may be eligible is available upon request, and 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, a notice that the utility has requested that the commission change its rates, a notice that copies of the utility's application are available for inspection at all offices of the utility, and 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, a notice that the cooperative has requested that the commission change its rates, a notice that copies of the cooperative's application are available for inspection at all offices of the cooperative, and 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.

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.

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.

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, it 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.

PART 6. PROCEDURES FOR SHUTOFF OR TERMINATION OF SERVICE

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 there. 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 to each dwelling unit that indicates that the customer of record, the landlord, has failed to pay an outstanding bill and is subject to shutoff of service on or after a specified date.

R 460.2165 Disputed claim.

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

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.

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, the hearing process shall provide a method for accomplishing this 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 7 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 therefor, 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 pending 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) When 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.

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, 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 it 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."**