

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to adopt emergency rules regarding billing practices)
for retail customers of electric and gas utilities)
subject to the Commission's jurisdiction.)
_____)

Case No. U-14668

At the December 20, 2005 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

CLARIFICATIONS REGARDING EMERGENCY RULEMAKING

On October 18, 2005, the Commission issued an order commencing this proceeding for the purpose of promulgating emergency billing practices for retail customers of electric and natural gas utilities subject to the Commission's jurisdiction for the winter heating period of November 1, 2005 through March 31, 2006. The proposed emergency rules were transmitted to the Governor for her concurrence. Certain non-substantive changes to the rules were made by the State Office of Administrative Hearings and Rules and the Legislative Service Bureau during the emergency rule promulgation process required by MCL 24.248. The Commission concurred with these non-substantive changes via an erratum issued on October 24, 2005, and a minute action issued on October 26, 2005. The Governor signed the emergency rules, which then became effective on October 28, 2005.

Upon advisement of the Commission Staff, the Commission has determined that clarifications are needed with respect to two aspects of the emergency rules. First, the Commission did not intend for the emergency rules to supersede pre-existing Commission rules covering tampering with, and unauthorized use of, electric and natural gas services, including R 460.2161, R 460.2372, R 460.2373, and R 460.3409. Tampering with, and unauthorized use of, utility services involve serious safety concerns that place customers at risk for personal injury and that may lead to potential destruction of property. Tampering and unauthorized use also have negative financial effects on the utility companies supplying service that may, in turn, be passed on to other customers. The Commission takes these issues seriously and in no way intended with these emergency rules to provide a path for customers to bypass responsibility for tampering and unauthorized use. To clarify, customers requesting the protections provided in Emergency Rule 4 must comply with the provisions under R 460.2161, R 460.2372, R 460.2373, and R 460.3409, as well as any other rules covering tampering and unauthorized use prior to receiving restoration of service or participation in shut-off protection.

Second, Emergency Rule 4 provides that eligible customers must pay 6% of the customer's estimated annual bill for the applicable period, rather than the 7% required under the Winter Protection Plan (R 460.2174), and, if an arrearage exists at the time the eligible customer applies for protection from shut-off, the arrearage in equal monthly installments between the date of application and the start of the subsequent space heating season. The Commission clarifies that the customer's bill should clearly state that the minimum payment required from a participating customer to prevent shut-off of service during the applicable period is the 6% of the estimated annual bill.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 *et seq.*; 1909 PA 300, as amended, MCL 462.2 *et seq.*; 1919 PA 419, as amended, MCL 460.51 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*
- b. The interaction of the Commission's pre-existing rules and the emergency rules approved in this proceeding, which became effective October 28, 2005, should be clarified.

THEREFORE, IT IS CLARIFIED that:

- A. Customers requesting the protections provided in Emergency Rule 4 must comply with the provisions under R 460.2161, R 460.2372, R 460.2373, and R 460.3409, as well as any other rules covering tampering and unauthorized use prior to receiving restoration of service or participation in shut-off protection.
- B. Customers' bills should clearly state that the minimum payment required from a participating customer to prevent shut-off of service during the period from November 1, 2005, to March 31, 2006, is 6% of the customer's estimated annual bill.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of December 20, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of December 20, 2005.

Its Executive Secretary