

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission’s own motion,)
to adopt emergency rules regarding shutoff and)
service limitation protections for certain residential)
customers of electric and gas utilities subject to)
the Commission’s jurisdiction.)
_____)

Case No. U-15783

At the February 20, 2009 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

CLARIFICATION REGARDING EMERGENCY RULEMAKING

On February 4, 2009, the Commission issued an order commencing this proceeding for the purpose of promulgating emergency shutoff protections for certain residential retail customers of electric and natural gas utilities subject to the Commission’s jurisdiction. The proposed emergency rules were transmitted to the Governor for her concurrence. Certain nonsubstantive 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, and the Commission concurs with these changes. The Governor signed the emergency rules, which then became effective on February 5, 2009.

Upon advisement of the Commission Staff, the Commission has determined that a clarification is needed with respect to the interplay between R 460.141 and R 460.142 of the Consumer

Standards and Billing Practices for Electric and Gas Residential Service and Rule 4(2). Rule 4(2) states:

Notwithstanding the provisions under Rule 460.141 and Rule 460.142, before shutting off service during the applicable period, 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, shall announce the purpose of his or her presence, and shall verify that the customer or any member of the customer's household does not meet any of the conditions specified in subrule 1 of this rule.

Rule 4(2) overlays R 460.141 and R 460.142, but the rule does not require more than a reasonable effort on the part of the utility employee to determine whether a customer at a residence properly scheduled for shut off qualifies for shutoff protection under the Emergency Rules. If, for example, the utility worker arrives at a house and no one is in the home, or no one responds, the utility worker may disconnect the service provided there are no obvious indicia of a vulnerable occupant of the residence, such as a wheel chair ramp. Likewise, it was never the Commission's intent to subject a utility representative to any obvious peril, such as might be presented if there is a history of confrontations between the customer and the company or any other circumstance such as an unruly dog on the porch, etc., that might compromise the employee's safety. Shutoff is also permitted, without verification of customer eligibility for shutoff protection, in emergency situations and in the case of unauthorized use of utility service as provided under R 460.136 and R 460.137(c).

THEREFORE, IT IS CLARIFIED that Rule 4(2) of the Emergency Rules requires only a reasonable effort on the part of the utility worker designated to disconnect service to determine whether a customer or household member at a residence scheduled for shut off qualifies for shutoff protection under the Emergency Rules, and does not require person to person verification in circumstances that are reasonably believed by the utility to present a hazard for its employees or in circumstances where the customer is actively seeking to evade the utility employee. Shutoff is

also permitted without the need for verification in cases of unauthorized use of utility service or for reasons of health, safety, or in a state or national emergency.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of February 20, 2009.

Mary Jo Kunkle, Executive Secretary