

Chapter Adm 43

NON-MUNICIPAL ELECTRIC UTILITY PUBLIC BENEFITS FEE

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Note: Chapter Adm 43 was created as an emergency rule effective August 22, 2000.

Adm 43.01 Authority. Sections 16.004 (1) and 16.957 (4) (b), Stats., authorize the department to promulgate rules for non-municipal electric utility public benefits fees.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.02 Purpose. The purposes of this chapter are to establish the public benefits fee to be collected by each non-municipal electric utility from its customers, and to provide procedures for collecting that fee.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.03 Definitions. In this chapter:

(1) "Amount invoiced" means that portion of the public benefits program funding level that is approved and allocated annually by the department to each non-municipal electric utility to be collected from its customers.

(2) "Commission" means the public service commission.

(3) "Customer" means the party billed for electric services.

(4) "Customer class" means any grouping of electric customers in the state that is billed for electric service under the same tariff that has been approved by the Commission.

(5) "Department" means the department of administration.

(6) "Electric provider" has the meaning specified in s. 16.957 (1) (f), Stats.

(7) "Electric utility" has the meaning specified in s. 16.957 (1) (g), Stats.

(8) "Fiscal year" means the period beginning on July 1 and ending on June 30.

(9) "Fixed charge" means a fixed amount within an electric tariff that is charged periodically to a customer without regard to energy demand or consumption.

(10) "Low-income household" has the meaning set forth in s. 16.957 (1) (m), Stats.

(11) "Low-income need" has the meaning set forth in s. 16.957 (1) (n), Stats.

(12) "Municipal utility" has the meaning specified in s. 16.957 (1) (q), Stats.

(13) "Non-municipal electric utility" means any electric utility that is not a municipal utility.

(14) "Non-residential customer" means any customer in this state that receives metered electric services under a commercial or industrial tariff and that is assessed a fixed customer charge at the meter's location.

(15) "Public benefits fee" means that portion of the amount invoiced that a non-municipal electric utility allocates to and collects from a customer, and may include approved reasonable and prudent expenses.

(16) "Public benefits program funding level" means the total funds to be collected by all electric providers annually under s. 16.957 (4) and (5), Stats.

(17) "Residential customer" means any customer in this state that receives metered electric services under a residential or farm tariff.

(18) "Retail electric cooperative" has the meaning specified in s. 16.957 (1) (t), Stats.

(19) "Tariff" means a rate schedule and general terms and conditions under which electric service is supplied.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.04 Estimating low-income need data. The department shall estimate the data required to compute the low-income need annually as directed in s. 16.957 (2) (c) 5., Stats., by the following means:

(1) Total low-income energy bill data shall be estimated by totaling all home energy bills of all low-income households as shown by the most recent data available on or before March 1 from the department's division of energy.

(2) Average annual income of low-income household data shall be estimated by averaging the annual income of all households at or below 150% of the poverty threshold as shown by the most recent data available on or before March 1 from the U.S. census bureau or the department's demographic services section.

(3) The number of low-income households shall be estimated by totaling the number of households at or below 150% of the poverty threshold as shown by the most recent data available on or before March 1 from the U.S. census bureau or the department's demographic services section.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.05 Establishing the public benefits program funding level. (1) Annually on or before March 1 the department shall determine, in accordance with s. 16.957 (4) and (5), Stats., the public benefits program funding level for the following fiscal year.

(2) When establishing the public benefits program funding level, the department shall determine the number of residential and non-residential customers served by each electric provider based on the most recent data available on or before March 1 from the energy information administration of the U.S. department of energy or any similar published data that the department determines to be reliable.

(3) After establishing the public benefits program funding level, the department, using the formulas provided in s. 16.957 (4) (c) and (5), Stats., shall determine the portion of the public benefits program funding level that the non-municipal electric utilities shall collect each fiscal year. The department shall allocate 70% of this portion to be collected from residential customers and 30% to be collected from non-residential customers.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.06 Allocating the amount invoiced. (1) The department shall annually determine the number of residential and non-residential customers for each non-municipal electric utility based upon the most recent data available on or before March 1 from the annual report of major utilities, licensees and

others filed with the federal energy regulatory commission, or similar sources as determined by the department.

(2) (a) The department shall calculate the amount invoiced by determining a residential component and a non-residential component and adding those components together.

(b) The residential component shall be estimated by calculating each non-municipal electric utility's percentage of the total number of residential customers served by all non-municipal electric utilities. This percentage shall be multiplied by the amount allocated to all residential customers under s. Adm 43.05 (3).

(c) The non-residential component shall be estimated by calculating each non-municipal electric utility's percentage of total non-residential customers served by all non-municipal electric utilities. This percentage shall be multiplied by the amount allocated to all non-residential customers under s. Adm 43.05 (3).

(d) In cooperation with the non-municipal electric utilities, the department may adjust the estimated residential component to minimize any inequities resulting from the application of the restrictions in s. 16.957 (4) (c) 3., Stats., in order to produce a more uniform public benefits fee. The adjustment process may change the amount of the residential component allocated to a non-municipal electric utility, but shall not change the total residential component.

(e) In cooperation with the non-municipal electric utilities, the department may adjust the estimated non-residential component to minimize any inequities resulting from the application of the restrictions in s. 16.957 (4) (c) 3., Stats., in order to produce a more uniform public benefits fee. The adjustment process may change the amount of the non-residential component allocated to a non-municipal electric utility, but shall not change the total non-residential component.

(3) The department shall provide all calculations and related information in writing to each non-municipal electric utility in the form of a single annual invoice on or before March 1. This documentation shall include an itemization of the residential and non-residential components based on the proportions prescribed in s. 16.957 (4) (b) 2., Stats.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.07 Collecting the public benefits fee.

(1) **IMPLEMENTATION.** Implementation of the public benefits fee collection plan shall begin in fiscal year 2001. The department may, at its discretion, modify any deadlines contained in this rule upon notification to the appropriate affected parties.

(2) **COLLECTION PLAN.** On or before April 1, each individual non-municipal electric utility shall submit a collection plan and supporting documentation to the department for collecting the following fiscal year's amount invoiced and for recovering reasonable and prudent expenses. The public benefits fee collection plan shall be based on the calculations and related information provided by the department under s. Adm 43.06. Each non-municipal electric utility shall submit documentation that demonstrates its implementation plan and a budget of expenses necessary to comply with the requirements in s. Adm 43.09.

(3) **CHARGES BILLED.** Each customer bill that includes a public benefits fee shall identify the public benefits fee as a "non-taxable fixed charge." All charges relating to the cost of supplying electric service to a residential or non-residential customer shall constitute the basis for calculating the limit on customer bill increases specified in s. 16.957 (4) (c) 3., Stats.

(4) **EQUITABLE ALLOCATION.** Each non-municipal electric utility shall submit documentation with its public benefits fee collection plan that demonstrates that the amounts of the public benefits fee it intends to bill its residential and non-residential customers equitably allocates the amount constituting the residential component among its residential customer classes, and the amount constituting the non-residential component among its non-residen-

tial customer classes. The amount of the public benefits fee may vary between customer classes, but shall be uniform within a customer class, except for variations due to the maximum bill increase restrictions in s. 16.957 (4) (c) 3., Stats.

(5) **REQUEST FOR REBATE.** A customer that pays one or more bills to a single non-municipal electric utility for meters located within that utility's service territory, may present documentation to and request relief from that non-municipal electric utility if the public benefits fees paid by the customer within that utility's service territory, when aggregated by the customer, exceed \$750 in any month. The non-municipal electric utility shall rebate that portion of the public benefits fee that exceeds \$750 in any month. Any amount so rebated to a customer under this provision shall be treated as an under-collection for purposes of s. Adm 43.08 (3).

(6) **DEPARTMENT REVIEW.** On or before May 1, the department shall approve, modify, or deny each proposed collection plan and notify each non-municipal electric utility accordingly. The department shall provide reasons for a denial or modification in writing. A non-municipal electric utility may protest a denial or modification of its collection plan under the procedures set forth in s. Adm 43.12.

(7) **PLAN IMPLEMENTATION.** Each non-municipal electric utility shall implement an approved or modified public benefits fee collection plan at the start of the first monthly or periodic billing cycle of the following fiscal year. A modified collection plan shall be implemented even if a protest has been filed under s. Adm 43.12.

(8) **DEPARTMENT DENIAL.** (a) If the department denies a proposed public benefits fee collection plan, the non-municipal electric utility shall resubmit a collection plan to the department on or before May 15 for the department's approval even if a protest has been filed under s. Adm 43.12. A resubmitted collection plan must address all comments and suggestions provided by the department in its denial.

(b) If the department denies a resubmitted collection plan, the non-municipal electric utility shall collaborate with the department to prepare a collection plan acceptable to the department. If the parties are unable to reach an agreement on or before June 1, the department shall issue a collection plan for the non-municipal electric utility to implement the following fiscal year.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.08 Payment and reconciliation of the public benefits fee.

(1) **PAYMENT DUE DATES.** Each non-municipal electric utility shall make equal monthly payments to the department of the amount invoiced, no later than the 15th day of each month. The first payment of each fiscal year is due on the 15th day of the second full month of the fiscal year.

(2) **LATE PAYMENTS.** Payments received after the 15th day of each month shall be assessed interest at the rate required by the commission for customer deposits for residential service set forth in s. PSC 113.0402 (9) (b).

(3) **RECONCILIATION OF COLLECTED FEES.** (a) Each non-municipal electric utility shall include a reconciliation statement for the preceding fiscal year with its proposed public benefits fee collection plan under s. Adm 43.07. If the total amount of public benefits fees collected is greater than the amount invoiced plus the total reasonable and prudent expenses approved by the department, the amount of over-collection shall be subtracted from the total amount of public benefits fees to be collected by the non-municipal electric utility in the succeeding fiscal year. If the total amount of public benefits fees collected is less than the amount invoiced plus the total reasonable and prudent expenses approved by the department, the amount under-collected may be added to the total amount of public benefits fees to be collected by the non-municipal electric utility for the succeeding fiscal year. Each non-municipal electric utility shall account for any variation in its collections, working capital costs, and reasonable and prudent

expenses when establishing its public benefits fee collection plan for the succeeding fiscal year.

(b) Once in any fiscal year, a non-municipal electric utility may submit a written request to the department to adjust its public benefits fee collection plan. The request shall contain the current amount that has been over-collected or under-collected and the amount that is forecasted to be over-collected or under-collected for the remainder of the fiscal year, the reasons for the differences and the non-municipal electric utility's proposed adjustments to its approved public benefits fee collection plan. The department shall indicate its approval or disapproval of the proposed adjustments in writing within 30 days of receipt of the request. The non-municipal electric utility may implement the collection plan adjustment immediately upon department approval. If the department does not approve a collection plan adjustment, the affected non-municipal electric utility may protest under procedures set forth in s. Adm 43.12.

(c) A non-municipal electric utility that has under-collected the amount invoiced in the previous fiscal year due to the restrictions of s. 16.957 (4) (c) 3., Stats., may submit with its reconciliation of collected fees a written request for a waiver of the obligation in s. Adm 43.08 (3) (a) to add the amount under-collected to the total amount of fees to be collected in the succeeding fiscal year.

(d) The department shall adjust a non-municipal electric utility's public benefits fee collection plan effective on the beginning of the fiscal year for which the collection plan was submitted, upon a successful appeal filed under s. Adm 43.12.

(4) ACCOUNTS RECEIVABLE AND UNCOLLECTIBLE ACCOUNTS. A non-municipal electric utility's reconciliation statement may include an estimation of the uncollected amount of its preceding year's public benefits fee that is recorded as an accounts receivable. A non-municipal electric utility's reconciliation statement may also include an estimated amount of its public benefits fee that was recorded in a previous fiscal year as accounts receivable and has been subsequently recognized as uncollectible revenues. The cost of uncollectible revenues may be included in a request for reasonable and prudent expenses in s. Adm 43.09.

(5) RECORDS. Each non-municipal electric utility shall maintain accurate records that allow the amount billed to and the amount collected from its residential and non-residential customers in each fiscal year to be measured against the amount invoiced, plus the total reasonable and prudent expenses approved by the department. The records shall be organized by customer class for residential customers and non-residential customers.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.09 Requesting approval for reasonable and prudent expenses. (1) A non-municipal electric utility may request recovery of reasonable and prudent expenses incurred in the development and implementation of its public benefits fee collection plan. The request shall be submitted in writing to the department for approval on or before February 15. The request shall include an accounting of actual costs for the previous calendar year. The non-municipal electric utility may include approved expenses in its public benefits fee collection plan for the following fiscal year.

(2) The department shall determine the amount of reasonable and prudent expenses that may be recovered and shall notify the non-municipal electric utility in writing of that amount on or before March 15.

(3) Requests for expenses that are recovered by a non-municipal electric utility in a current tariff shall be denied.

(4) A non-municipal electric utility may appeal a denial of expenses under the procedures set forth in s. Adm 43.12.

(5) A non-municipal electric utility shall document all reasonable and prudent expenses it seeks to include in the public benefits fee.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.10 Voluntary contributions. (1) ANNUAL OPPORTUNITY. At least annually, each electric utility shall provide its residential and non-residential customers an opportunity to make voluntary contributions to the trust fund established under s. 25.96, Stats., to fund their choice of programs established in s. 16.957 (2) (a), Stats. An electric utility shall provide the opportunity for its residential and non-residential customers to make such voluntary contributions by including an insert and return envelope in the mailing containing the annual public benefits report required by s. 16.957 (4) (am), Stats. Each electric utility may provide opportunities for its residential and non-residential customers to make voluntary contributions to an energy assistance fund administered by the electric utility at other times and by other methods.

(2) DESIGNEE FOR RECEIPT. The department may provide a designee to receive voluntary contributions from an electric utility's customers. Each electric utility shall forward to the department or its designee any voluntary contributions it receives for the utility public benefits fund. The department's designee shall receive, process and keep records of all voluntary contributions.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; correction in (1) made under s. 13.93 (2m) (b) 7., Stats.

Adm 43.11 Reports and annual statements. (1) INITIAL ANNOUNCEMENT. The department shall prepare an initial announcement of the public benefits fee program to be included by each non-municipal electric utility with its first bill in which the fee is included. Upon prior written approval by the department, a non-municipal electric utility may modify the text in order to fit within the constraints of the utility's billing system capabilities.

(2) FINANCIAL REPORT. No later than 60 days after the end of each fiscal year, each non-municipal electric utility shall submit to the department a complete financial report of its public benefits fees. The report shall include a complete explanation of the collection reconciliation and the balance as of the end of the fiscal year, an assessment of the implementation of its public benefits fee collection plan, the amount collected by customer class, and any other matter the department determines necessary.

(3) DEPARTMENT STATEMENT. The department shall provide each non-municipal electric utility with an annual statement within 120 days of the end of each fiscal year identifying the total amount of the annual amount invoiced to each non-municipal electric utility, and describing the programs for which the public benefits fees were used.

(4) NON-MUNICIPAL ELECTRIC UTILITY STATEMENT. Each non-municipal electric utility shall distribute the department's annual statement to each of its residential and non-residential customers. No non-municipal electric utility may be required to provide an individual customer the specific amount of public benefits fees assessed to that customer when it distributes the department's annual statement.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Adm 43.12 Appeals. (1) RIGHT TO PROTEST. A non-municipal electric utility that disputes the department's denial or modification of its proposed public benefits fee collection plan, the denial of an expense request, or the denial of a reconciliation statement may protest to the department. The non-municipal electric utility shall serve the protest in writing on the administrator of the department's division of energy and public benefits within 15 days of the receipt of the department's denial or modification of the proposed public benefits fee collection plan under s.

Adm 43.07, the reconciliation statement under s. Adm 43.08, or the expense claim under s. Adm 43.09.

(2) AUTHORITY TO RESOLVE PROTESTS. The administrator of the department's division of energy and public benefits shall have the authority to settle and resolve any protest brought under this subsection. If the protest is not resolved by mutual agreement, the division administrator shall promptly issue a written decision to the protesting utility.

(3) APPEAL. A protesting utility may appeal the decision of the division administrator by alleging a violation of statute or a provision of this chapter to the secretary of the department within 30 calendar days of issuance of the administrator's decision. The secretary or secretary's designee shall take necessary action to settle and resolve the appeal and shall promptly issue a decision in writing which shall be mailed or otherwise served on the protesting utility.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.