

CR 83-52

1-AC-44

CERTIFICATE

STATE OF WISCONSIN)
) ss.
PUBLIC SERVICE COMMISSION)

RECEIVED

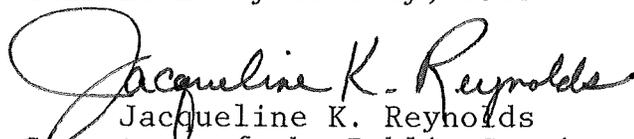
JUL 27 1983
2:20 p.m.
Revisor of Statutes
Bureau

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Jacqueline K. Reynolds, Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the annexed order creating Wis. Adm. Code sections PSC 113.132(11), 134.062(10), 165.052(8) and 185.37(10) was duly approved and adopted by this commission on July 21, 1983.

I further certify that said copy has been compared by me with the original on file in this commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the commission at the Hill Farms State Office Building, in the City of Madison this 26th day of July, 1983.


Jacqueline K. Reynolds
Secretary of the Public Service
Commission of Wisconsin

10-1-83

DATE MAILED
JUL 25 1983

COMPARED WITH AND CERTIFIED BY ME
TO BE A FULL, TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE IN MY OFFICE.

JUL 21 1983

Jeorguelina K. Reynolds
Secretary to the Commission
Public Service Commission of Wisconsin

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Relating to Rules Allowing Telephone)
Resolution of Customer Disputes and)
Rules Providing for Provision of)
Service to Disconnected Customers)

1-AC-44



ORDER OF THE
PUBLIC SERVICE COMMISSION
CREATING RULES

Relating to creation of secs. PSC 113.132(11),
134.062(10), 165.052(8) and 185.37(10), prohibiting disconnection
of customer electric, gas, telephone or water service because of
past unpaid bills if the customer provides a deposit, guarantee or
voucher agreement.

ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION
OF WISCONSIN

On January 13, 1982, the Public Service Commission held
hearing into proposed amendment and creation of rules concerning
two subjects: (1) telephone resolution of customer utility
disputes, and (2) provision of service to customers who have been
disconnected because of outstanding bills. Adoption of the first
set of rules was approved in March, 1982. Adoption of the second
set of rules was deferred pending additional consideration and
consultation with interested parties. This second set is now being
adopted. The rules provide that service to a customer with an

unpaid bill may not be denied if the customer provides a deposit or guarantee to insure payment for future service, or a voucher agreement.

As originally noticed, this second set of rules would have created identical secs. PSC 113.132(11), 134.062(10), 165.052(8), and 185.37(10) to read:

Utility service may not be refused because of a delinquent account if the applicant provides reasonable assurance of payment for future service, including an adequate deposit, guarantee or voucher agreement.

Hearing participants voiced three major objections to these rules as proposed. First, there were objections that the phrase "reasonable assurance of future payment, including an adequate deposit, guarantee or voucher agreement," was too vague and could lead to disagreements as to what would constitute a "reasonable assurance of future payment."

This problem has been eliminated by deleting the phrase "reasonable assurance of payment for future service including...." This step limits the rule to cases where the applicant for service provides a deposit, guarantee or voucher agreement. Because deposit and guarantee criteria are specifically set forth in other rules (sec. PSC 113.131, 134.061, 165.051 and 185), and voucher agreements provided by assistance agencies are of definite terms, this change in the proposed rule should eliminate interpretation problems.

A second problem cited by hearing participants is that the rule as proposed may conflict with other existing rules. For example, sec. PSC 113.132(2)(a) allows disconnection of service for failure to pay an outstanding account, and sec. PSC 113.132(6)(a) prohibits disconnection or refusal of service for a six-month-old delinquent account when there have been no collection efforts. The implication is that service may be disconnected or refused when the unpaid bill is not six months old. Some conflict may also be argued with respect to sec. PSC 113.131(13) and 113.133 concerning deferred payment agreements.

In order to avoid any interpretation problems due to apparent conflicts with other rules (not only in ch. PSC 113, but also in parallel situations concerning gas, telephone and water service) the phrase "Notwithstanding any other provision in this chapter" will be added to each rule to indicate that in the case of an apparent conflict with any other rule, the one being adopted in this order will prevail. Again, to use the electric example, a utility may still provide a delinquent customer with service under a deferred payment--secs. PSC 113.131(13) and 113.133--but may not require a deferred payment agreement when the customer is able to comply with the requirements of proposed sec. PSC 113.132(11) by providing a deposit, guarantee or voucher.

Finally, persons appearing at the hearing on behalf of utilities protested the apparent effect of the new rules in preventing them from insisting on some sort of deferred payment agreement to pay a portion of a delinquent account as a condition of service. Their argument is that unless they can insist on partial payment for past service as a condition of future service, uncollectibles will rise. They wish to use denial of future service as a lever to compel payment of outstanding accounts.

There are two answers to this concern. First, while the proposed rules make clear that a delinquent customer may receive service by providing a deposit, guarantee or voucher they really are in no way inconsistent with present rules. Again, to use electric as the example, while the utility must offer a deferred payment agreement to a delinquent customer, under which an outstanding bill is paid in installments as a condition of service, the customer may, as an alternative, choose instead to provide a cash deposit or guarantee, since under present rules one is "in lieu" of the other. (See sec. PSC 113.131(13), Wis. Adm. Code). Thus, the proposed rules clarify but do not change present procedure.

Also, a utility which provides service to a delinquent customer posting a deposit, guarantee or voucher to insure payment for future service is in no worse a position than if it had terminated service to the delinquent customer. In both cases

collection efforts will be necessary for past-due accounts. Utility service is a monopoly essential to human life and health, and to property, which should not be denied so long as the utility is provided with a deposit, guarantee or voucher to insure payment for future service.

Given the above considerations and amendments, the commission approved the proposed rules prior to legislative review on March 29, 1983. The rules were reconsidered on May 5, 1983, and discussions held with concerned utilities. As a result of these discussions, the commission has scheduled hearing in docket 1-AC-58 on rules which will allow utilities specific authority to use customer deposits to satisfy arrearages which should provide more security for utilities.

RULES AND STATUTORY AUTHORITY

Pursuant to authority vested in the Public Service Commission by secs. 196.02(1), 196.03, 196.28, 196.37 and 227.014, Stats., the Public Service Commission adopts the following rules:

SEC. 1: Sec. PSC 113.132(11) is created to read:

Notwithstanding any other provision of this chapter, utility service may not be refused because of a delinquent account if the customer or applicant provides as a condition of future service a deposit or guarantee as governed by sec. PSC 113.131, or a voucher agreement.

SEC. 2: Sec. PSC 134.062(10) is created to read:

Notwithstanding any other provision of this chapter, utility service may not be refused

because of a delinquent account if the customer or applicant provides as a condition of future service a deposit or guarantee as governed by sec. PSC 134.061, or a voucher agreement.

SEC. 3: Sec. PSC 165.052(8) is created to read:

Notwithstanding any other provision of this chapter, utility service may not be refused because of a delinquent account if the customer or applicant provides as a condition of future service a deposit or guarantee as governed by sec. PSC 165.051, or a voucher agreement.

SEC. 4: Sec. PSC 185.37(10) is created to read:

Notwithstanding any other provision of this chapter, utility service may not be refused because of a delinquent account if the customer or applicant provides as a condition of future service a deposit or guarantee, as governed by sec. 185.36, or a voucher agreement.

These proposed rules should have no fiscal impact on the state or municipalities. They have been sent to the legislature for review as required by sec. 227.018, Stats. They will take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in sec. 227.026, Stats.

This action is classified as a Type III action according to PSC 2.90(3), Wis. Adm. Code. No unusual circumstances have come to the attention of the commission that would require further environmental review. It consequently

requires neither an environmental impact statement under
s.1.11, Wis. Stats., nor an environmental assessment.

Dated at Madison, Wisconsin

July 21, 1983

By the Commission.

Jacqueline K. Reynolds
Jacqueline K. Reynolds
Secretary to the Commission