

State Register

STATE OF
MINNESOTA



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PROPOSED RULES

Public Service Commission

Revision of Proposed Rules Governing Various Subjects

Notice of Hearing

Notice is hereby given that a public hearing on the following matters will be held in the Large Hearing Room, Seventh Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, on Tuesday, February 8 through Friday, February 11, 1977, commencing at 9:30 a.m. (CST) each day and continuing until all representatives of associations or other interested groups or persons have been given an opportunity to be heard.

The proposed rules will be heard as follows: Gas and Electric proposed rules on February 8; Telephone proposed rules on February 9, Weights and Measures proposed rules on February 10; and Motor Vehicle Transportation rules on February 11.

Any interested person, representative of an interested group or other parties affected may participate in the hearing. Statements, either oral or in writing, may be submitted at the hearing. Statements or briefs may be submitted by parties who do not appear at the hearing. The original of such material must be filed with Examiner Bernard Singer, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104 (phone: 612/296-8117). In addition, the record of the hearing will remain open for twenty (20) days following adjournment for the filing of such written statements or briefs.

The proposals, if adopted, would:

I.

Revise PSC 279-336 (Gas and Electric Utilities Customer Service Rules and Standards) to clarify ambiguous provisions, specify customer complaint procedures, eliminate cold weather disconnection prohibition, substantially change disconnect procedures and penalties, eliminate utility penalty in customer disputes, revise escrow procedures, expand required billing content, revise inaccurate meter and back billing provisions, limit responsibility for over and under-charges, revise deposit requirements.

II.

Adopt a rule to be designated PSC 410 to provide for the filing of annual reports by gas and electric utilities. The proposed rule would provide a focal point for collecting financial, customer service and engineering information; furnish a basic source document for use in rate cases and other regulatory proceedings; furnish a basic source document for the preparation of external and internal reports; and furnish a basic source document for the evaluation of correspondence with various gas and electric utility companies.

III.

Adopt a new rule to be designated PSC 420 requiring gas and electric utilities to include in the Uniform System of Accounts moneys expended by lobbyists during the course of their activities. This rule would require disclosure and documentation of expended funds so the amount spent by utilities will be available for consideration in rate matters as an expenditure.

IV.

Adopt a new rule to be designated PSC 215 relating to depreciation certification for telephone utilities to provide a uniform system of control and review over depreciation practices of telephone companies.

V.

Revise PSC Chapter Seven for the purpose of clarifying existing rules by grouping them according to subject matter and providing telephone customers the same safeguards and protection furnished by gas and electric utility companies and requiring telephone companies to include in the Uniform System of Accounts moneys expended by lobbyists during the course of their activities. Where possible, regulations will be standardized so they apply in a similar manner to telephone, gas and electric utilities. Adoption of all or part of this proposal will necessitate re-numbering of the rules in Chapter Seven.

VI.

Amend PSC 120 to adopt by reference National Bureau of Standards Handbook 44, 4th Edition, 1976. The following sections of Handbook 44 will be affected by adoption of this proposal:

(Note: NEW means "Changed", "Renumbered" or "In Addition To" the present Code H-44, 3rd edition.)

New General Code

G-A.2.	G-S.5.2.3.	G-S.7.	G-UR.3.4.
G-S.1.	G-S.5.3.1.	G-N.2.	G-UR.4.1.
G-S.2.	G-S.5.5.	G-UR.1.1.	G-UR.4.2.
G-S.3.	G-S.5.6.	G-UR.1.2.	G-UR.4.3.
G-S.5.2.2.	G-S.6.	G-UR.3.2.	G-UR.4.4.
		G-UR.3.3.	G-UR.4.5.

New Scale Code.

A.1.	S.2.3.	SR.4.1.	T.2.3.1.	UR.1.1.
S.1.1.	S.2.4.	SR.4.2.	T.2.3.2.	UR.1.1.4.
S.1.4.	S.2.4.1.	SR.5.	T.2.5.	UR.1.1.5.
S.1.4.1.	S.2.5.	SR.6.	T.2.6.	UR.1.1.6.
S.1.5.	S.2.5.1.	SR.7.	T.2.7.	UR.1.1.7.
S.1.6.	S.2.6.	SR.7.1.	T.2.8.	UR.1.1.8.
S.1.6.1.	S.2.6.1.	SR.7.2.	T.2.9.	UR.2.3.
S.1.6.2.	S.2.10.	SR.8.	T.3.1.	UR.2.4.
S.1.6.3.	S.4.2.	T.1.	T.3.2.	UR.2.5.
S.1.6.4.	S.4.3.	T.1.1.	T.3.3.	UR.2.6.
S.1.7.	S.6.3.	T.1.2.	T.3.4.	UR.2.6.1.
S.1.7.1.	S.6.4.	T.1.3.	T.3.5.	UR.2.6.2.
S.1.7.2.	N.1.3.4.	T.1.4.	T.3.6.	UR.3.1.
S.2.	N.1.3.5.	T.1.5.	T.3.6.1.	UR.3.2.1.
S.2.1.2.	N.1.3.6.	T.1.6.	T.3.6.2.	UR.3.5.1.

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S.2.1.3. N.3. T.1.7. T.3.6.3. UR.3.5.2.
S.2.1.4. SR.3. T.2.1. T.3.8. UR.4.1.
S.2.1.5. SR.4. T.2.2. T.3.8.1. UR.4.3.
T.2.3. T.3.8.2. UR.4.4.

Entire Code on Belt Conveyor Scales.

New Code on Weights.

A.1.
A.2.
A.3.

New Code for Liquid Measuring Devices.

A.1. S.1.5.2. S.2.6.4. N.5. UR.3.2.
A.2. S.2.1. S.2.7. T.1.1. UR.3.3.
A.3. S.2.5.1. S.2.7.1. Table #1 UR.3.4.
S.1.4.2. S.2.6. S.4.3.2. UR.1.1. UR.3.5.
S.1.4.4. S.2.6.1. N.1. UR.1.1.1. UR.3.5.1.
S.1.4.5. S.2.6.2. N.4.1. UR.2.4. UR.3.5.2.
S.1.4.6. S.2.6.3. N.4.2.2. UR.2.5. UR.3.5.3.

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A.1. S.4. S.5.2. N.4.3.
A.2. S.4.1. S.5.3. N.4.4.
A.3. S.4.2. S.5.4. Table #2
S.2.2.1. S.5. N.1. UR.1.3.
S.3. S.5.1. N.4.1.1. UR.2.2.
N.4.2. UR.2.3.

New Code for Liquefied Petroleum Gas/Liquid Measuring Devices.

A.1. S.1.4.4. S.2.7. UR.2.4.1.
A.2. (delete S.1.4.4. S.3.1. UR.2.4.2.
A.3. from old book) N.4.2.2. UR.2.5.
S.1.1.5. S.2.6.1. UR.2.4. UR.2.6.

New Code for Liquefied Petroleum Gas/Vapor Measuring Devices.

Entire Code.

New Code on Cryogenic Liquid Measuring Devices.

Entire Code.

Liquid Measures.

A.1.
A.2.
A.3.

New Code for Vehicle Tanks Used as Measures.

Entire Code.

New Code for Farm Milk Tanks.

A.1. S.3.5.3.
A.2. N.5.
A.3. T.2.
S.2.2. T.3.
S.2.2.1. T.4.
S.2.2.2. (delete UR.3.
S.2.3. in old book)

New Code for Measure Containers.

A.1.

A.2. (delete S.4.2.1. in old book)
A.3. (delete S.4.2.2. in old book)
S.2.

New Code for Milk Bottles.

A.1. Change Table #1
A.2. T.2.
A.3. New Table #2
S.4.1.
S.4.2.

New Code for Lubricating Oil Bottles.

A.2.
UR.1.

Graduates.

A.2.
S.3.
Table #3 changed

Linear Measures.

A.2.
T.2.

Fabric Measuring Devices.

A.1.
A.2.
A.3.
S.2.1.3.

New Code for Wire & Cordage Measuring Devices.

A.2.
S.1.
S.2.3.
S.3.3.
N.1.
N.2.
UR.1.1.
UR.2. (table #1 changed)
UR.2.2.
UR.2.3.
UR.2.4.

New Code for Odometers.

A.1.
A.3.
N.1.1.
N.1.2.
N.1.3.1.
N.1.3.2.
N.1.3.3.
UR.1.

New Code for Timing Devices.

Entire Code.

New Code for Dry Measures.

A.1.
A.2.
A.3.
A.4.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

New Code for Berry Baskets and Boxes.

A.2.

Taximeters.

A.3.

N.1.3.1.

UR.2.

VII.

To eliminate in their entirety, PSC 106 pertaining to Coupled-in-Motion Weighing Systems of railroad freight cars, PSC 123 relating to Vehicle Tanks, and PSC 124 relating to provisions for sealing Liquid-Measuring Devices.

VIII.

Amend PSC 122 to provide a requirement that straight approaches to motor truck scales be hard surfaced in both ends of the scale.

IX.

Adopt a new rule to be designated PSC 128 providing for a voluntary registration of persons authorized to service commercial weighing and measuring devices. Such registrants would be authorized, after making necessary repairs, to remove official rejection tags or marks placed on a weighing or measuring device and allow such device to be placed in service until such time as an official inspection or test can be made. This proposed rule would further provide for reciprocity agreements with any other state or states having similar registration requirements; for the payment of a registration fee; the issuance of a registration certificate; certification of standards and testing equipment used by registrants; and publication of an official list of registered service persons.

X.

Amend PSC 2(m) to allow permit contract and irregular route common carriers to commingle cargo provided the carrier holds both types of authority.

XI.

Amend PSC 2(o) to eliminate the requirement for a hearing when a petroleum carrier or permit carrier of petroleum products is ordered to install a recording device following a violation of law or rule.

XII.

Amend PSC 2(s)(3)(aa) by deleting paragraph (aa-1). This amendment will apply the provisions of paragraph (aa) to carriers holding an authority as Irregular Route Common Carrier, Petroleum Carrier, Regular Route Common Carrier, Interstate Carrier, Charter Carrier and Livestock Carrier.

XIII.

Revise a portion of PSC 5 (Safety: General Application - Safety Regulations) to incorporate changes in the Code of Federal Regulations, Title 49, dated October 1, 1975. This

proposed rule will also correct the mailing address of the Public Service Commission.

Upon written request, you will be furnished with one free copy of that portion of the proposed rules (with existing language bracketed and new language in boldface) in which you have an interest. Your request stating specifically those proposed rules desired should be mailed to the Department of Public Service at the address given in this order. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 216A.05 (1974).

A Statement of Need and a Statement of Evidence are available for review at the office of the Secretary of the Public Service Commission on the Seventh Floor of the American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota. The Statement of Need explains the need for and the justification of the proposed amendments. The Statement of Evidence (as required by HE 103(i)) summarizes the evidence which will be presented by the Department in support of the proposals. A copy of these statements will be furnished upon written request to the Commission Secretary. A copy of Handbook 44 is available for reference at the same location. Additional copies can be secured only from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Pursuant to Minn. Stat. § 10A.03 (1974), any individual who engages for pay or other consideration in representing persons or associations attempting to influence administrative action such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement by such individual of the activity.

Lawrence J. Anderson

Secretary

Motor Bus and Truck Division Regulation of Petroleum Carriers

Chapter One

PSC 2 Commission action.

PSC (a) through (l) remain the same.

(m) Carriers holding authority both as a permit contract carrier and as an irregular route common carrier [must not] **may** engage in more than one of such types of carriage at the same time with the same vehicle **providing the vehicle is registered under both types of carriage.**

(n) remains the same.

(o) Whenever a petroleum carrier or a permit carrier of petroleum products violates the provisions of any of

PROPOSED RULES

these rules or any law relating to the transportation of petroleum products by such carrier, in addition to the penalties prescribed by law for the violation thereof, the Commission may[, after notice of hearing,] require such petroleum carrier to install on any or all of the petroleum transports owned or operated by him a mechanical time recording device which shall record the starting, stopping, and running time of each of such transports. The records made by such recording device shall be kept by the petroleum carrier for a period of not less than one year from the date of the record. Should the Commission order the installation of such recording device, the carrier shall install the same within sixty (60) days from the effective date of the order and thereafter no transport owned or operated by such carrier shall be placed into service until such a recording device has been installed thereon.

PSC (p) through (r) remain the same.

(s) Leased equipment.

(1) and (2) remain the same.

(3) Duties of the lessor and lessee.

(aa) The lease shall be executed in at least three copies — one executed copy shall be retained by the lessee, one executed copy shall be retained by the lessor, and one copy shall be kept with the leased equipment at all times during the term of the lease.

[(aa-1) The provisions of paragraph (aa) shall not apply between motor carriers that have authority as defined under Minn. Stat. § 221.011, Subds. 9, 10, 11, 12, 13, 21 and 24, nor shall it apply to Local Cartage Carriers as defined in Minn. Stat. § 221.296.]

PSC (bb) through (gg) remain the same.

Revision of Highway Safety Standards

PSC 5 General application safety regulations. For uniformity in compliance in the interest of public safety, the safety rules and regulations of the Public Service Commission shall apply to all persons engaged in the business of transportation of persons or property for-hire on the highways of Minnesota.

A. All rules and safety regulations prescribed in Code of

Federal Regulations, Title 49, Parts [290-297] **390-397**, as revised [January 1, 1968] **October 1, 1975**, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, not in conflict with the laws of the state of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

B. All rules and safety regulations prescribed in Code of Federal Regulations, Title 49, Parts 100 to 199, revised as of [October 1, 1973] **October 1, 1975**, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, designated as the hazardous materials regulations, not in conflict with the laws of the State of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

C. A copy of the safety regulations set forth in the Code of Federal Regulations, Title 49, Parts [290-297] **390-397**, as revised [January 1, 1968] **October 1, 1975**, and referred to in PSC 5, is maintained in the offices of the Public Service Commission, [400 SE State Office Building] **790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101**, and is open and available to the general public for inspection.

PSC (a) through (k) remain the same.

Weights and Measures Division Railroad Weighing Systems

Chapter Three

[PSC 106 Pertaining to railroad freight cars coupled in motion weighing systems.

(a) Coupled in motion weighing systems. Upon application to the Commission, the use of coupled in motion weighing systems may be authorized, for tariff purposes only, for railroad freight cars at designated installations in such form and manner as shall establish true and correct weights subject to tolerances herein listed for coupled in motion weighing systems. The application for installation of coupled in motion weighing systems shall include a description of the type of scale or system and manner or method of weighing.

(b) Scale tolerance. The permitted tolerance for coupled in motion weighing systems used in tariff weighing shall be as follows:

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

(1) Train load accuracy.

(aa) 0.1% for the total weight of 100 car weights (i.e., 10 car cut weighed 10 times).

(bb) 0.2% for the total weight of 10 car weights.

(2) Individual car accuracy. Maximum single car error occurring on 95% of the cars shall not exceed 0.5%.

(3) Static accuracy test. The basic maintenance tolerance shall be 2 pounds per 1,000 pounds of test load (0.2 per cent). The acceptance tolerance shall be one-half of the basic maintenance tolerance.

(c) Value of the minimum graduated interval. The value of the minimum graduated interval may be 100 pounds. For test purposes, the minimum graduation shall be no longer than 20 pounds.]

Standards for Commercial Weighing and Measuring Devices

Chapter Four

PSC 120 Promulgation of existing code by reference. The specifications, tolerances and other technical standards for commercial weighing and measuring devices as prescribed by the National Conference on Weights and Measures and published in the National Bureau of Standards Handbook 44-[3rd Edition, 1965] **4th Edition, 1976**, are hereby adopted by reference as the standards of the State of Minnesota for such devices. Provided, however, that should the aforesaid Handbook 44 contain any provisions contrary to the laws of Minnesota or the rules of the Minnesota Public Service Commission, Minnesota law or Public Service Commission rule shall govern.

PSC 122 Scales and weighing devices. General specifications.

A. [(a)] Pivots.

1. [(1)] Positioning. All pivots or knife-edges shall be firmly secured in or to the levers.

2. [(2)] Material. The material used for pivots shall be either:

a. [(aa)] Special alloy pivot steel (SAE 6195 or 52100) hardened to Rockwell C scale not less than 58, or

b. [(bb)] Carbon steel hardened to Rockwell C scale not less than 60.

c. [(cc)] Agate may be used for prescription scales and balances.

3. [(3)] Design. All pivots shall be sharp and bear throughout the entire length of the parts designed to be in contact.

B. [(b)] Bearings.

1. [(1)] Finish of bearing steels. The bearing surfaces shall be brought to a smooth, true and accurate finish to insure continuity of contact with opposing pivots. (The term "bearing" used in these specifications refers to the entire surface which designed to be in contact with the edge of a knife-edge or pivot.)

2. [(2)] Material. The requirements shall be the same as those set forth in section (a), (2), (aa) and (bb).

C. [(c)] Approaches. A vehicle scale shall have at least twelve feet or a distance equal to one-third of the deck length, whichever is greater, of straight **hard surface** driveway on either end of the scale not over one-third inch per foot out of level of platform. The first 6 feet on both ends shall be constructed or reinforced concrete.

D. [(d)] Proper position of weighing and measuring devices used in trade for vending. The position or location of all weighing and measuring devices shall be determined by the Weights and Measures Division, but in no case shall the device be placed for use in such a position or location that the indications cannot be easily read by all parties interested. (The permissible distance between the device and a reasonable customer position will depend upon the size and character of the indicating elements of the device.)

E. [(e)] Submission of plans. The manufacturer shall furnish to the purchaser plans of design showing detailed dimensions for all scale parts and the material of which they are to be fabricated; also assembly plans showing location of all field connections and all information necessary for the purchaser to erect the scale. If it is so deemed necessary by the Weights and Measures Division the purchaser may be required to submit to said department for approval the foregoing plans, together with his detailed plans for the construction and location of the scale to be installed, including the foundation thereof.

F. [(f)] Livestock scales. Livestock scales in sales pavilions, buying stations, stockyards and packing plants shall be equipped with full capacity type registering weighbeams or automatic weight recorders.

G. [(g)] Scale pits. The scale pits on all motor vehicle and livestock scales shall have 48 inch minimum distance between the weighbridge I-beam and the floor of the pit.

H. [(h)] Pitless-type scales. A self-contained or pitless-type motor vehicle or livestock scale shall not be used in any one location for any time period longer than 130 calendar

PROPOSED RULES

days. If the self-contained or pitless motor vehicle or live-stock scale remains in the same location for more than 130 calendar days, a pit shall be constructed in conformance to existing Minnesota regulations.

[PSC 123 Vehicle tanks. In determining the capacity of a vehicle-tank compartment, water is recommended as the testing medium.

(a) Definition. A vehicle tank is an assembly used for the delivery of liquids, comprising a tank, which may or may not be subdivided into two or more compartments, mounted upon a wagon, automobile truck, or trailer, together with its accessory piping, valves and meters. The term "compartment" shall be construed to mean the entire tank whenever this is not subdivided; otherwise it shall mean any one of those subdivided portions of the tank which is designed to hold liquid.

(b) Specifications.

(1) Permanence. A vehicle tank shall be so designed and shall be of sufficiently substantial construction that it may reasonably be expected to withstand ordinary usage without impairment of the accuracy of the deliveries made therefrom; the shell and the bulkheads shall be of such construction that they will not become distorted under any condition of liquid lading.

(2) Venting means. Each compartment shall be provided with suitable venting means to prevent the formation of air pockets by permitting the escape of air from all parts of the compartment designed to be filled with liquid and to permit the influx of air to the compartment during the process of delivery.

(3) Marking. All lettering and figures required under these specifications shall be of such size, design, material, and location, and shall be so applied or affixed, that they will not tend easily to become obliterated or illegible.

(4) Fraudulent construction. All vehicle tanks and all devices designed to be attached thereto and used in connection therewith shall be of such design and construction that they do not facilitate the perpetration of fraud.

(5) Fill openings and indicators.

(aa) The fill opening shall be of such size that it can readily be determined whether or not the compartment has been properly filled or completely emptied, as the case may be, and that the attachment of the seal can be readily ac-

complished when such sealing is required by the terms of this specification; however, if the fill opening is circular its effective diameter shall in no case be less than 7/8 inches, or if other than circular, it shall have an effective area of not less than 45 square inches. An indicator shall be provided within the fill opening of each compartment and shall be permanently attached and located on a line marking the centerlength of the compartment, midway between the ends of the compartment. The indicator shall be so designed that it will clearly, distinctly, and unmistakably define the height to which the compartment must be filled in order to contain its marked capacity, and the change in height of the liquid surface at the index of the indicator equivalent to the volume representing the tolerance on the compartment capacity, shall in no case be less than 0.04 inch.

(bb) Highway load limit. In order that a transport truck tank carrier of petroleum products may haul the legal maximum weight-load at all times, multiple indicators, not to exceed five, at levels permitting the maximum gallonage for the lightest and heaviest fluids hauled may be installed to allow for volumetric weight discrepancies caused by temperature variations. This specification shall apply only to vehicle tanks having a total gallonage that may exceed the maximum weight-limit restrictions of the Minnesota Highway Department.

(6) Expansion space. The indicators shall be so positioned that when a compartment is filled to the indicators the expansion space shall not be less than one per cent of the capacity of the compartment.

(7) Provision for complete delivery. The tank and the delivery piping shall be so designed and constructed and shall be so mounted upon the vehicle that when standing upon a level surface complete delivery may be made from any compartment through the delivery faucets or valves whether other compartments are full or empty.

(8) Discharge through manifold. When two or more compartments discharge through a manifold, effective and automatic means shall be provided to prevent the passage of liquid from the manifold into the discharge line from any compartment. This does not apply to a tank that is equipped to be bottom-loaded through the manifold.

(9) Piping. Vehicle tanks, equipped with control or emergency valves, shall have such valves at the lowest point of outlet from each compartment, and the capacities of such compartment shall be construed as not including the capacity of the piping leading therefrom. However, the capacity

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of the piping leading from such a compartment shall be separately determined and reported, and may be separately determined and reported, and may be separately marked.

(10) Marking of capacity. Each compartment of a tank shall be plainly and conspicuously marked with a designating letter or figure and each delivery faucet or valve shall be correspondingly marked to indicate the compartment of which it is the outlet. In addition, the tank shall be plainly and conspicuously marked to show the capacity, to the nearest half gallon, of each compartment; and such marking shall indicate that the capacities given are measured to the indicators provided. This latter marking shall be placed adjacent to the faucets or valves.

(11) Vehicle tank used as a measure. When a vehicle tank is used as a measure, the vehicle shall stand upon a level surface during the filling of the compartment; during a delivery, the vehicle shall be so positioned as to insure complete delivery whenever the delivery is such that a compartment should be completely emptied.

(12) Damaged tank. If a vehicle tank be damaged, repaired, or modified in any way which might affect the accuracy of measurement of its deliveries, it shall not again be used for measurement until inspected and, if deemed necessary, tested, by the Weights and Measures Division.

(13) Location of fill openings. The fill openings shall not be positioned from the center of a compartment by an amount greater than its diameter.

(14) Metal identification plate. There shall be on every compartment a metal plate located on right side near fill opening, in a place readily accessible for inspection. This plate shall be permanently affixed to the tank by means of soldering, brazing, welding or other equally suitable means, and upon it shall be marked Minnesota Weights and Measures Division calibration number, manufacturer's number, date of calibration, and the gallonage of the compartment.

(c) Tolerances for vehicle tanks used as measures. The tolerances to be allowed in excess or deficiency on all vehicle-tank compartments which are being tested by the Weights and Measures Division for the first time, to verify the accuracy of a capacity marked by a manufacturer or user, shall be the values shown in the column headed, "On first test" in the following table. The tolerances to be allowed in excess or deficiency on all subsequent tests to verify the accuracy of a marked capacity, shall be the values shown in the column headed "On subsequent test." These tolerances are to be applied to the difference between the actual result of the calibration and the marked capacity of the compartment. Whenever the result of a calibration indicates that the marked capacity of a compartment is not accurate within the tolerance to be applied, if the capacity of the

compartment is adjustable, then the marking shall be changed in accordance with the provisions of specification No. 10, or the result of the calibration shall be taken as the basis of an adjustment and the adjustment shall be so made that the capacity of the compartment agrees as nearly as may be with such marked capacity; if the capacity of the compartment cannot be adjusted to agree with the marked capacity, then the marking shall be changed in accordance with the provisions of specification No. (10).

Compartment capacity Gallons	Tolerance	Tolerance
	On first test Pints	On subsequent tests Quarts
200 or less	4	2
201 to 400, incl.	4	3
401 to 600, incl.	5	4
601 to 800, incl.	6	5
801 to 1,000, incl.	7	6
Over 1,000	Add 1 pint per 200 gallons or fraction thereof.	Add 1 quart per 200 gallons or fraction thereof.]

[PSC 124 Liquid-measuring devices. Provision for sealing. Any device adapted for adjusting or correcting the delivery of a liquid-measuring device, or for changing the maximum delivery rate of a meter when this change tends to affect the accuracy of the deliveries, shall be of such construction that it may be sealed, either separately or together, in such a manner that the position of neither can be changed without destroying the seal or seals.]

PSC 128 For the voluntary registration of service persons for commercial weighing and measuring devices. These rules and regulations on the voluntary registration of service persons for commercial weighing and measuring devices are promulgated under authority conferred upon the Department of Public Service to promulgate regulations for registration of weighing and measuring device repair persons.

A. It shall be the policy of the Director of Weights and Measures to accept voluntary registration of individuals who provide acceptable evidence that they are fully qualified to install, service, repair, or recondition a commercial weighing or measuring device, have a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations and have possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. This policy shall in no way preclude or limit the right and privilege of any qualified individual not registered with the Director to install, service, repair, or recondition a commercial weighing or measuring device.

B. Definitions.

1. Director shall mean the Director of the Department of Public Service or his delegate.

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2. Registered service persons shall mean any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device and who voluntarily registers himself as such with the Director.

3. The term commercial weighing and measuring device shall be construed to include any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

4. Reciprocity. The Director may enter into an informal reciprocal agreement with any other State or States that has or have similar voluntary registration policies. Under such agreement, the registered service person of the State party to the reciprocal agreement is granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all States party to such agreement.

5. Voluntary registration. A service person may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the Director. Said form, duly signed and verified, shall include certification by the applicant that:

a. The service person is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered,

b. The service person has in possession, or available for use, all necessary testing equipment and standards, and

c. The service person has full knowledge of all appropriate weights and measures laws, orders, rules, and regulations. An applicant also shall submit appropriate evidence or reference as to qualifications.

6. Registration fee. The minimum charge for the calibration of testing equipment for issuance of Placed-in-Service permits shall be \$10.00.

7. Certificate of registration. Upon receipt and acceptance of a properly executed application form, initial examination and certification of standards and testing equipment to be used, and any other proof of competence the Director shall deem necessary, the Director shall, after having received the applicant's annual registration fee, issue to the applicant a Certificate of Registration, including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the Director.

8. Privileges of a voluntary registrant. A bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Director; place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device. All work on weighing and measuring devices restored to service or placed in service shall be performed by or under the direct supervision of a bearer of a certificate of registration.

9. Responsibilities of a voluntary registrant. It shall be the responsibility of a bearer of a Certificate of Registration to comply with the provisions of National Bureau of Standards Handbook 44, and the Examination Procedure Outlines (E.P.O.'s) published by the National Bureau of Standards.

10. Placed-in-service report. The Director shall furnish each registered service person with a supply of report forms to be known as Placed-in-service reports. Such a form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered service person for each rejected device restored to service and for each newly installed device placed in service. Within 24 hours after a device is restored to service, or placed in service, the original of the properly executed Placed-in-service report, together with any official rejection tag removed from the device, shall be mailed to the Division of Weights and Measures, 1015 Currie Avenue, Minneapolis, Minnesota 55403. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered service person.

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11. **Standards and testing equipment.** A registered service person shall submit to the Weights and Measures Laboratory, upon initial application for voluntary registration and at least annually thereafter, for its examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. The cost of such inspection and certification shall be paid by the registrant in an amount based upon the Standards Laboratory Fee Schedule. A registered service person shall not use, in servicing commercial weighing or measuring devices, any standards or testing equipment that have not been certified by the Director.

12. **Publication of lists of approved standards and testing equipment.** The Director shall publish from time to time as he deems appropriate, any may supply upon request, information concerning standards and testing equipment acceptable for use by registered service persons.

13. **Revocation of certificate of registration.** The Director may inspect the work of repairman at any time and may, for good cause, after careful investigation and consideration, suspend or revoke a Certificate of Registration.

14. **Publication of lists of registered service persons.** The Director may publish, from time to time as he deems appropriate, and may supply upon request, lists of registered service persons.

15. **Effective date.** This regulation shall become effective on _____.

Utilities Division Revision of Standards for Telephone Service to the Public

Chapter Seven

PSC 170 - 178 Remain the same.

PSC 179 [Customer Billing] **Business office procedures.**

(a) Bills to customers shall be rendered regularly and shall contain a clear listing of all charges.

(b) In the event the dispute is not reconciled, the company shall advise the customer that he may make application to the Commission for review and disposition of the matter.

(c) In the event the customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported

to the company, adjustments shall be made to the customer, based upon the prorata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made.

(d) Upon the request of any customer or applicant, the telephone utility shall provide an explanation of the rates, charges and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable him to obtain the most economical communications service conforming to his stated needs. Applicants for residential telephone service shall be advised as to alternate services available to meet their stated communications requirements. This information may include printed explanations of alternate services and rates. Correspondingly, the utility shall notify residential customers of any service and shall provide an estimate of the initial billing for basic monthly service (including fractional monthly amounts) plus any other applicable charges.

(e) The customer shall be provided with an estimate of the charges where special charges not specifically set forth in a utility's tariff are levied on the basis of actual cost for such items as extraordinary construction, maintenance, or replacement costs or expenses, overtime work at the customer's request and special installations, equipment and assemblies.]

A. Information available to customer and public.

1. **Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility. If one business office serves several communities, toll-free calling from such communities to that office shall be provided.**

2. **Access to the following information shall be made available at the business office upon request:**

a. **Copies of all tariffs as described in these rules applicable to the area served by the business office;**

b. **Maps showing exchange, base rate area and zone boundaries (if applicable) in sufficient size and detail from which all customer locations can be determined and mileage or zone charges quoted;**

c. **Publicly announced information as to the**

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present intended future availability of specific classes of service at an applicant's location;

d. Publicly announced information concerning plans for major service changes in the area served by the business office;

e. Information pertaining to services and rates as proposed in pending tariff or rate change filing.

B. Complaint procedures.

1. The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests and complaints.

2. If any complaint cannot be promptly resolved, the utility shall contact the customer within five (5) business days and at least once every fourteen (14) calendar days thereafter, and advise the customer regarding the status of its investigation until:

a. the complaint is mutually resolved; or

b. the utility advises the customer of the results of its investigation and final disposition of the matter; or

c. the customer files a written complaint with the Public Service Commission or the courts.

3. When the Public Service Commission forwards a customer complaint to the utility, the utility shall notify the Commission within five (5) business days regarding the status or disposition of the complaint.

C. Record of complaint.

1. Each utility shall keep a record of all complaints received by it from its customers which shall be classified as directed by the Public Service Commission.

2. The record shall show the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof.

3. The utility shall keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions.

D. Reporting requirement.

1. Each utility shall file an annual report on or before May 1 with the Utility Division of the Public Service Commission containing the following information:

a. The total number of resolved and unresolved complaints by class of service and type of complaint;

b. The total number of customers in each class of service and the total number of customers who initiated service during the past year;

c. The names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

2. This report will be an official document and all information must be verifiable and available for inspection and investigation by Commission staff.

3. The utility must provide upon notice by the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

4. The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.

PSC 180 [Business office operations.] **Customer billing; deposit and guarantee requirements.**

[(a) General.

1. Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility. If one business office serves several communities, toll-free calling from such communities to that office shall be provided.

2. Qualified personnel shall be instructed to be courteous, considerate, efficient and be available to promptly serve those who contact the business office.

3. Access to the following information shall be made available at the business office upon request:

(aa) Copies of all tariffs as described in these rules applicable to the area served by the business office.

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(bb) Maps showing exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage or charges quoted.

(cc) Publicly announced information as to the present intended future availability of specific classes of service at an applicant's location.

(dd) Publicly announced information concerning plans for major service changes in the area served by the business office.

(ee) Information pertaining to services and rates as proposed in pending tariff or rate change filing.

(b) Customer deposits.

1. A deposit may be required as a condition for establishment or continuance of service as provided for in the utility's rules and tariffs on file with the Commission.

2. When a deposit is required it shall not exceed the estimated two months' total telephone service billing.]

A. Customer billing.

1. Bills to customers shall be typed or machine printed, rendered regularly, and shall contain an itemized listing of all charges and the period of time covered by the billing. Statements itemizing message toll charges, if applicable, shall be included in bills to customer.

2. In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the prorata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made.

3. Upon the request of any customer or applicant, the utility shall provide an explanation of the rates, charges and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable him to obtain the most economical communications service conforming to his stated needs. Applicants for telephone service shall be advised as to alternate services available to meet their stated communications requirements. This information may include printed ex-

planations or alternate services and rates. Correspondingly, the utility shall notify its customers of any services and shall provide an estimate of the initial billing for basic monthly service (including fractional monthly amounts) plus any other applicable charges.

B. Deposit and guarantee requirements.

1. The utility may require a deposit or guarantee of payment from any customer or applicant who has not established good credit with that utility. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment. The utility may determine whether a customer has established good credit with that utility, except as herein restricted:

a. A customer, who within the last twelve (12) months has not had his service disconnected for non-payment of a bill which is not in dispute, shall be deemed to have established good credit.

b. A utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, marital status, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

c. No utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of the customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit rating or credit service other than that of a utility shall not affect the determination by the utility as to that customer's credit history.

2. Deposit. When required, a customer may assure payment by submitting a deposit.

a. A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

b. All deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility.

c. Interest shall be paid on deposits in excess of \$20 at the rate of six (6%) per cent per year. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection. The utility may, at its

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option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

d. The deposit shall be refunded to the customer after twelve (12) consecutive months of prompt payment of all utility bills. The utility may, at its option, refund the deposit by direct payment or as a credit on the bill.

e. With notice any deposit of a customer may be applied by the utility to a bill when the bill has been determined by the utility to be delinquent.

f. Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within forty-five (45) days to the customer.

g. A utility shall not require a deposit or a guarantee of payment without explaining in writing why that deposit or guarantee is being required and under what conditions, if any, the deposit will be diminished upon return.

h. Each utility shall issue a written receipt of deposit to each customer from whom a deposit is received and shall provide a means whereby a depositor may establish a claim if the receipt is unavailable.

3. Guarantee of payment.

a. The utility may accept, in lieu of a deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than twelve (12) months, but shall automatically terminate after the customer has closed and paid the account with the utility, or at the guarantor's request upon sixty (60) days' written notice to the utility.

b. Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300.

c. The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed unless the guarantor waives such notice in writing.

PSC 181 [Reasons for denying service.] **Disconnection of service.** [Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, notified and allowed, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued:

1. Without notice in the event of customer use of equipment in such a manner as to adversely affect the utility's equipment or the utility's service to others.

2. Without notice in the event of tampering with the equipment furnished and owned by the utility.

3. For violation of, or non-compliance with, the Commission's Regulations Governing Service supplied by Telephone Utilities, or for violation of, or non-compliance with, the utility's rules or tariffs on file with the Commission.

4. For failure to comply with municipal ordinances or other laws pertaining to telephone service.

5. For failure of customer to permit the utility reasonable access to its equipment.

6. For non-payment of bill as provided for in the utility's tariff.

7. Failure to establish credit on request for initial or additional service.]

A. Disconnection of service with notice-permissible reasons. With notice a utility may disconnect service to any customer for any reason stated below. Notice must comply with the requirements of PSC 182:

1. For failure of the customer to pay a bill for utility service when due.

2. For failure of the customer to meet the utility's deposit and credit requirements.

3. For failure of the customer to make proper application for service.

4. For customer's violation of any of the utility's rules on file with the Commission.

5. For failure of the customer to provide the utility reasonable access to its equipment and property.

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6. For customer's breach of the contract for service between the utility and the customer.

7. For a failure of the customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service.

8. When necessary for the utility to comply with any order or request of any governmental authority having jurisdiction.

B. Disconnection of service without notice-permissible reasons. Without notice a utility may disconnect service to any customer for any reason stated below:

1. In the event of tampering with the utility's equipment.

2. In the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public.

C. Temporary disconnection of service. A utility may temporarily disconnect service to a customer otherwise entitled to disconnect service, upon written request by said customer. Temporary disconnection of service for this reason does not require refund of deposit nor interruption of interest.

D. Non-permissible reasons to disconnect service. A utility may not disconnect service to any customer for any reason stated below:

1. Delinquency in payment for services rendered to a previous customer who occupied the premises unless said customer continues to occupy the premises.

2. Failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service.

3. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for disconnection of residence service or vice versa.

4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or billing error if the customer agrees to payment over a reasonable period of time.

E. Manner of disconnection. Service shall not be disconnected on any Friday, Saturday, Sunday or legal holiday, or at anytime when the utility's business offices are not open to the public.

F. Reconnection of service. In the event service has been disconnected for valid cause by the utility, the utility may charge a reconnect fee based on the cost of reconnection as stated in the utility's tariff on file with the Commission. Notwithstanding the above provision, the utility shall not charge a reconnect fee for disconnection of service pursuant to PSC 181 B. 2.

PSC 182 [Insufficient reasons for denying service.] **Notice: other time requirements.** [The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

1. Delinquency in payment for service by a previous occupant, other than a member of the same household, of the premises to be served.

2. Failure to pay directory advertising charges.

3. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residence service or vice versa.]

A. Where required by these rules, notice of impending action by the utility shall be by first class mail. Notice shall be sent to the address where service is rendered or to the address where the bill is sent if different from the address where service is rendered. A representative of the utility must make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer.

B. All notices required by these rules must precede the action to be taken by at least five (5) days excluding Sundays and legal holidays. No notice may be given until the condition of which it informs, presently exists.

C. In lieu of mailing, notices may be delivered by a representative of the utility. Such notices must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of responsible age, or the utility representative must make an affidavit under oath that he delivered the notice to the customer, his residence or his business.

D. A record of all notices and all affidavits required by these rules must be kept on file by the utility and must be made available to the Commission.

E. Disconnection notices shall contain the date on or after which disconnection will occur, reason for disconnection, and methods of avoiding disconnection in normal easy to understand language.

PSC 183 [Complaints and appeals.] **Disputes.**

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[(a) Each telephone utility shall make a full and prompt investigation of all types of complaints made by its customers or applicants, either directly to it or through the Commission.

(b) The utility shall direct its personnel engaged in initial contact with an applicant or customer in which dissatisfaction with the decision or explanation of such personnel is expressed, to inform him of his right to have the problem considered and acted upon by supervisory personnel of the telephone utility. The utility shall further direct such supervisory personnel, in the event the decision or explanation is not acceptable to the applicant or customer, to advise him that he may appeal the matter to the Commission.

(c) If the use of service interferes unreasonably with the necessary service of other customers, a customer may be required to take service in sufficient quantity or of a different class or grade.]

A. Whenever the customer advises the utility's designated representative prior to the disconnection of service that any part of the bill as rendered or any part of the service which affects the amount of the bill is in dispute, the utility shall:

1. Investigate the dispute promptly.
2. Advise customer of investigation and its result.
3. Attempt to resolve dispute.
4. Withhold disconnection of service until the investigation is completed and the customer is informed of the findings of fact.
5. Upon the findings of the utility, the customer must submit payment in full of any bill which is due.
6. If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility. Such payment shall be called an "escrow payment."

B. Escrow payments:

1. To submit a payment in escrow, the customer must make payment of the amount due as shown on the bill through an "escrow payment form" clearly marked and provided by the utility.

2. The "escrow payment form" must provide space for the customer to explain why the utility's resolution of the dispute is unsatisfactory to the customer. The form must be in three (3) copies, one of which will be retained by the customer.

3. A copy of the "escrow payment form" must be forwarded by the customer to the Public Service Commission.

4. Any escrow payment to the utility may be applied by the utility as any normal payment received by the utility.

5. After escrow payment has been made, the customer and the utility may still resolve the dispute to their mutual satisfaction.

6. By submitting the "escrow payment form" to the Commission, the customer shall be deemed to have filed an informal complaint against the utility, pursuant to the Commission's Rules of Practice PSC 500-521).

7. Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a six (6%) per cent per annum interest charge from the date of payment to the date of return by the utility.

C. A customer may apply to the utility to waive its rights to disconnect. If the utility refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status. If the Commission determines the customer has a probable claim in the dispute and that hardship may result in the event of discontinuation of service, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed thirty (30) days.

D. Notwithstanding anything herein to the contrary, the utility shall not be obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer shall pay, when due, all current bills rendered during the pendency. If, following the first filing for review with the Commission, the same customer or any other person, files for any subsequent review by the Commission pertaining to the same account, such subsequent filings shall not relieve the customer from the obligations to pay for service rendered after the first filing. If subsequent requests for review are filed during the pendency of the first review, all designated disputed payments or portions thereof

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made after the first filing shall be considered to be made into escrow.

PSC 184 — 211 Remain the same.

Regulation of Telephone Accounting

PSC 212 Telephone accounting rules. For purposes of accounting regulations the Commission has grouped all telephone companies into the following classes:

[(a)] **A. Classification.**

1. Class A. Companies having average annual gross operating revenues of \$250,000 or more.

2. Class B. Companies having average gross operating revenues of \$100,000 but not more than \$250,000.

3. Class C. Companies [operating a telephone exchange but having average gross operating revenues of less than \$100,000] **having average annual gross operating revenues exceeding \$50,000 but not more than \$100,000.**

4. Class D. [Township, rural line, or other switching companies which do not operate a telephone exchange.] **Companies having average gross operating revenues not exceeding \$50,000.**

[(b)] **B.** The class to which a telephone company belongs shall be determined by the average of its annual gross operating revenues for the three preceding years. If, at the end of any calendar year, this average is greater than the maximum or less than the minimum for the class in which the company has been grouped, it shall be automatically grouped in the higher or lower class in which it falls. A telephone company beginning a new operating or extending its existing operations shall be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

[(c)] **C.** A telephone company may, at its option, place itself in any group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission. A telephone company presently reporting as a Class B company but having annual gross operating revenues of less than \$100,000 may continue reporting as a Class B company.

[(d)] **D.** A telephone company shall maintain its records and accounts in accordance with the applicable uniform system of accounts, and shall file its annual report for the previous calendar year on or before May 1 of each year on

the report forms furnished by the Commission. Applicable schedules of such report forms shall be completed in full.

[(e)] **E.** Class A and Class B telephone companies shall maintain their accounts in accordance with the uniform systems of accounts for Class A and Class B telephone companies prescribed by the Federal Communications Commission. Class C telephone companies shall maintain their accounts in accordance with the uniform system of accounts for telephone companies prescribed by this Commission. Class D telephone companies shall maintain such records as will enable them to complete the annual report form prescribed and furnished by the Commission.

[(f)] **F.** All telephone companies requesting a rate adjustment shall present exhibits including a detailed income statement and balance sheet for the latest calendar year as shown in regularly filed annual reports. Exhibits should also include the latest available data. An income statement for any period other than a calendar year must be for a full twelve-month period.

1. All telephone companies subject to reporting requirements of the Commission shall file with each annual report a copy of annual stockholders report if such a report is printed. Should a company furnish quarterly reports to stockholders a copy of each such report shall also be filed with the Commission.

2. All telephone companies who furnish quarterly reports to a federal regulatory commission shall regularly file a copy of such reports with the Commission.

G. Lobbying expenditures.

1. For the purpose of rule 212 G., the following definitions shall apply:

a. "Lobbying expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing legislation or administrative action or supporting the election of any candidate to office. Lobbying expenditures also include:

(1) the pro rata portion of salaries of lobbyists which represents the portion of their duties related to lobbying; and

(2) their lobbying expenditures.

b. "Lobbyist" means any individual or association engaged for pay or other consideration or authorized by a telephone utility to spend money who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by com-

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municating or urging others to communicate with public officials.

c. "Utility non-operating expense" means expenditures associated with activities other than those resulting from the regular activity of supplying service to the consumer.

d. "Utility operating expense" means expenditures associated with the direct or regular activity of supplying service to the consumer.

2. General application.

a. Rule 212 G. applies to each telephone utility regulated under Minn. Stat. Ch. 237.

b. Each telephone utility shall maintain accounts and records relating to lobbying expenditures and make them available for inspection by the Commission upon request.

c. Each telephone utility shall report lobbying expenditures in accordance with PSC Rule 212 G. 4., and on 30 days notice at such time as the Commission deems necessary to carry out its regulatory responsibilities.

3. Accounting treatment, lobbying expenditures.

a. Each telephone utility shall cause sub-accounts to be established for the sole purpose of recording lobbying expenditures.

(1) lobbying expenditures for utility operating expense shall be charge to a sub-account of Other Expenses.

(2) Lobbying expenditures for utility non-operating expense shall be charged to a sub-account of Miscellaneous Deductions from Income.

b. The above accounts shall be effective the first day of January of the year following the year in which this regulation becomes effective for any lobbying expenditures subsequent to that date.

4. Reporting requirements.

a. Each telephone utility which has incurred lobbying expenditures shall file with the Commission by the first day of April each year a report of such lobbying expenditures for the prior calendar year. The report shall include the following information:

(1) Name and address of the utility.

(2) Officer responsible for the report.

(3) As to each lobbyist:

(a) Name and address.

(b) A general description of the subject or subjects in which the lobbyist was actively associated.

(4) Lobbying expenditures for the period classified by subject.

(5) Name and address of each utility sharing lobbying expenditure if joint venture.

b. Each telephone utility which has not incurred any lobbying expenditures during the previous calendar year, shall file with the Commission by the first day of April in the following year a statement by an officer attesting that it had no lobbying expenditures.

PSC 213-214 Remain the same.

Depreciation Certification for Telephone Regulation

Chapter Seven

PSC 215 Definitions: Depreciation certification.

A. "Accumulated provision for depreciation" or "Depreciation reserve" means the total charges for retirements, net salvage, and the annual provision for depreciation accrual(s) recorded by the utility under an approved method of depreciation accounting.

B. "Annual provision for depreciation accrual" means the annual amount of depreciation charged to expenses and/or clearing accounts.

C. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the probable service life of an asset or liability to which it applies, or over a period during which it is anticipated the benefit will be realized.

D. "Cost of removal" means the cost of demolishing, dismantling, removing, tearing down or abandoning of

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physical assets, including the cost of transportation and handling incidental thereto.

E. "Depreciation," as applied to depreciable utility plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption of prospective retirement of utility plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities. (For purposes of these rules, references to depreciation will include amortization unless otherwise stated.)

F. "Depreciation accounting" means a system of accounting which aims to distribute cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation.

G. "Group plan." Under this plan, depreciation charges are accrued on the original cost of all property included in each depreciable plant account using a composite rate based on average service life of the components properly weighed. Upon retirement of any depreciable property, its full service value is charged to the depreciation reserve whether or not the particular item has attained the average service life.

H. "Net salvage" means salvage of property retired less the cost of removal.

I. "Original cost" means the cost of property to the person first devoting it to public service.

J. "Probable service life" of a unit means that period of time extending from the date of its installation to the forecasted date when it will probably be retired from service.

K. "Public utility" means any telephone utility as defined in Chapter 7, PSC 172 (36) operating within the State of Minnesota and under the jurisdiction of the Commission.

L. "Salvage" means the amount received for assets retired, less any expenses incurred in connection with the sale or in preparing the assets for sale; or if retained, the amount at which the materials recoverable is chargeable to materials and supplies, or other appropriate accounts.

M. "Straight-line method" means the plan under which the original cost of an asset adjusted for net salvage

is charged to operating expenses and/or to clearing accounts and credited to the accumulated provision for depreciation through equal annual charges over its probable service life.

N. "Service value" means the difference between original cost and net salvage value of utility plant.

PSC 216 General provisions: depreciation certification.

A. All telephone utilities shall maintain, and have available for inspection by the Commission upon request, adequate accounts and records related to depreciation practices as defined herein.

B. Each utility has the prime responsibility for proposing the depreciation rates and methods that will be used. The Commission shall certify by order to the utility the depreciation rates and methods which it considers reasonable and proper.

C. Any allocation or adjustment of the depreciation reserve will require specific justification and certification by the Commission.

D. Class A and B utilities, as defined in Minn. Reg. PSC 212 A. shall maintain continuing property records.

E. Class A and B utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class A and B telephone utilities as prescribed by the Federal Communications Commission.

F. Class C utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class C telephone utilities as prescribed by the Federal Communications Commission.

G. Class D utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class D telephone utilities as recommended by the Federal Communications Commission.

H. All telephone utilities shall retain data in sufficient detail to conduct depreciation certification studies for the purpose of determining depreciation accruals and reserves by depreciable telephone plant account. Depreciable plant accounts, are those specified by the Federal Communications Commission for the class to which a telephone company belongs.

I. All telephone utilities shall review their depreciation rates annually to determine if they are still generally appropriate. Depreciation certification studies shall be made so that all depreciable plant accounts shall have

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been analyzed at least every five (5) years. Depreciable plant accounts are those specified by the Federal Communications Commission's Uniform system of accounts for the class to which a telephone company belongs.

J. Any utility may at its option follow the depreciation rules prescribed herein for a larger class of utilities.

K. A petition for depreciation certification may be submitted by the utility or requested by the Commission because of unusual circumstances.

PSC 217 Filing requirements: depreciation certification studies.

A. Initially upon Commission notification, and at least every five (5) years thereafter, each public utility (Class A, B, C and D) shall file a petition for depreciation certification and the following depreciation schedules (for each year since the last certification) in the form prescribed by the Commission.

1. Plant in service (by each appropriate depreciable plant account applicable to its Class):

- a. Beginning and ending plant balances.
- b. Additions and retirements.
- c. Adjustments and transfers.

2. Analysis of depreciation reserve (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

- a. Beginning and ending reserve balances.
- b. Depreciation accruals and plant retirements.
- c. Cost of removal and gross salvage value.
- d. Transfers, adjustments and other debits (credits).

3. Summary of annual depreciation accruals (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

- a. Plant balance.
- b. Estimated net salvage.
- c. Depreciation reserve.

d. Probable service life.

e. Depreciation accrual and rate.

B. In addition, all utilities shall provide with the petition for depreciation certification:

1. A list of accounts upon which the utility has made studies of the estimates of service life and salvage, the dollar effects and the results of these studies, and the utility-recommended depreciation rates for the accounts.

2. A list of any major future additions or retirements to the plant accounts which the utility believes may have a material effect on the current certification results.

C. All utilities shall furnish any additional documentation necessary to support findings of the study.

PSC 218 Prescribed methods: depreciation certification studies.

A. The Commission prescribes the straight-line method for calculating depreciation accruals.

B. Any exceptions to these methods will require specific justification and certification by the Commission.

C. No specific methods are prescribed by the Commission in estimating service lives and salvage values. The methods selected by each utility will be reviewed for appropriateness by the department staff as part of the utility's certification filing.

PSC 219 Petition for certification procedure.

A. Utilities shall petition the Commission for certification of depreciation rates and methods as prescribed by the Commission's rules of practice for petitions.

B. Prior to the initial certification of a utility's depreciation rates and methods, the depreciation rates and methods effective as of January 1, 1977 are to be used.

C. Depreciation rates and methods, once certified by order, are binding on all future rate proceedings and will remain in effect until the next certification or until the Commission shall determine otherwise.

D. If a utility is unable to comply by January 1, 1978 with any of the provisions of PSC 215-219, the utility shall

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petition the Commission within three (3) months of the effective date of these rules for a temporary exception. The petition shall include the justification for non-compliance, the duration of the desired exception, and the plan for compliance.

Gas and Electric Utilities Procedures Concerning Customer Service, Information and Complaints

Chapter Eleven

PSC 279 Remains the same.

PSC 280 [Complaint procedures. Each utility shall establish procedures which will insure prompt, efficient and thorough recording, investigation and disposition of all customer inquiries, service requests and complaints regarding utility service, charges or other matters.] **Reserved for Future Use.**

PSC 281 Customer information. The utility is responsible for informing its customers [of certain required information in the matters as prescribed by the following provisions] **of the following information as prescribed by following provisions:**

[(a)] **A.** A sign or notice, which shall be approved by the Commission, posted prominently and conspicuously at all utility office locations open to the general public [, explaining where, when and to whom a complaint is directed, and notice of the mediation availability of the Public Service Commission with its address]. **The sign or notice shall state where, when, and to whom a complaint is to be directed, and the address of the Public Service Commission and its availability for mediation upon written request.**

[(b)] **B.** The utility shall, at its expense, publish "customer information," that will be offered to each new customer, and upon request, to any existing customer. This "customer information" must be submitted to the Commission for approval. This "customer information" must, at a minimum, include the following:

[(1)] **1.** The utility's own customer [rules.] **policies governing the following areas.**

- a. **bill collections,**
- b. **notice of disconnection,**
- c. **disconnection of service,**
- d. **reconnection of service,**
- e. **deposit and guarantee requirements, and**

f. **meter reading procedures.**

[(2)] **2.** The rate schedule pertaining to the customers of that area. The current rate schedule as required by PSC 310(c) may be attached to the "information" to meet this requirement.

[(3)] **3.** The title, addresses and phone numbers of the department(s) of the utility to which complaints should be directed, including a telephone number for customers to call in emergency situations **or a concise statement as to where such information can be obtained.**

[(4)] **4.** [The rules and regulations of the Public Service Commission concerning complaints and customer relations of the utilities.] **The information contained in PSC 282 B. and PSC 303.**

[(5)] **5.** [The deposit and guarantee standards of the utility.] **This statement: "The Minnesota Public Service Commission regulates this utility and is available for mediation upon written request", and the address of the Minnesota Public Service Commission.**

[(6)] The notice of the Public Service Commission's regulation of utilities and of its available mediation process as prescribed in PSC 303.]

[(c)] **C.** The utility's billing statements to its customers must contain this information:

[(1)] **1.** This statement: "Register any inquiry or complaint at . . ." (and list the address and telephone number of the utility, designating where the customer may initiate an inquiry or a complaint, **or a concise statement as to where such information can be obtained.**)

[(2)] **2.** A notice to customers of the availability upon request of the "customer information."

PCS 282 [Personnel procedures required.] **Complaint procedures.** [The utility shall establish personnel procedures, which as a minimum, insure that qualified personnel shall be available during all regular business hours for the receiving of customer telephone calls and customer office visits; and shall be properly instructed to either act upon the inquiry, request or complaint, or to be able to refer the customer to the proper department or personnel of the utility who is able to handle the problem effectively. The utility shall obviate the necessity of the customer's repetition of the entire complaint, inquiry or request to employees lacking in ability and authority to take appropriate action.]

A. **The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests and complaints.**

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B. If any complaint cannot be promptly resolved, the utility shall contact the customer within five (5) business days and at least once every fourteen (14) calendar days thereafter, and advise the customer regarding the status of its investigation until:

1. the complaint is mutually resolved; or
2. the utility advises the customer of the results of its investigation and final disposition of the matter; or
3. the customer files a written complaint with the Public Service Commission or the courts.

C. When the Public Service Commission forwards a customer complaint to the utility, the utility shall notify the Commission within five (5) business days regarding the status or disposition of the complaint.

PSC 283 Remains the same.

PSC 284 Reporting requirement. [Each utility shall file an annual report within sixty (60) days after the end of each calendar year with the Public Utilities Division of the Public Service Commission, which in detail contains this required information:

(a) The utility shall report by class of service and type of complaint, the total numbers of resolved and unresolved complaints, and the average time period to resolve each type of complaint.

(b) The utility shall report the total number of customers in each class of service and the total number of customers who initiated service during the past year.

(c) The utility shall list in this report the names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

(d) This report will be an "official" document and all information must be verifiable and available for inspection and investigation by Commission staff.

(e) The utility must provide upon notice of the Commission, an up-to-date report of this type prior to any hearing

before the Commission, or upon any official request of the Commission.

(f) The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.]

A. Each utility shall file an annual report on or before May 1 with the Utilities Division of the Public Service Commission containing the following information:

1. The total numbers of resolved and unresolved complaints by class of service and type of complaint.

2. The total number of customers in each class of service and the total number of customers who initiated service during the past year.

3. The names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

B. This report will be an "official" document and all information must be verifiable and available for inspection and investigation by Commission staff.

C. The utility must provide upon notice by the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

D. The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.

PSC 285 Remains the same.

PSC 286 [Required response time. If the complaint cannot be immediately resolved, the utility shall make contact with the complainant within five (5) business days and periodically thereafter and give notice to him or her about the present status of their investigation, until the complaint is resolved or until a higher mediating body such as the Commission or the courts becomes involved.] **Reserved for future use.**

PSC 287 [Notice to Public Service Commission. When the

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utility is notified by the Public Service Commission about a complaint, it must respond back to the Commission within five (5) days to give notice of disposition and the manner in which it was resolved, or the status of the complaint in process.] **Reserved for future use.**

PSC 295 Definitions.

[(a)] **A.** "Disconnection of service" means an involuntary cessation of utility service to a customer.

[(b)] **B.** "Temporary Disconnection" means a voluntary cessation of utility service and applies specifically to PSC 298[(a)(9)] **C.** This is not a permanent termination of service.

[(c)] **C.** "Customer" means any person, firm, association or corporation, or any agency of the Federal, State or local government, being supplied with service by a utility, subject to the jurisdiction of this Commission.

PSC 296 Extension of service.

[(a)] **A.** Each utility shall file a plan in its tariff application for the installation of extensions to main and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the costs.

[(b)] The utility shall make all extensions within its service area within ninety (90) days after a person requests service or upon application by the utility; and for good cause shown, the Commission may extend the period for not to exceed another ninety (90) days.

(c) This extension shall be given with the consideration to the public need for adequate, efficient, and reasonable service; to the need of the utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its property, and to earn a fair and reasonable return upon its investment in such property; and to any other factors or evidence material and relevant thereto.]

[(d)] **B.** No electric utility shall extend service beyond its service area to customers who require a connected load less than two thousand (2,000) kilowatts. Extension of service outside of a utility's service area shall in all cases be governed by Laws of 1974, ch. 479, §§ 39-44.

[(e)] **C.** Extension of any electric service outside of a utility's service area but which does not extend into another utility's service area, shall be as directed by the Commission.

PSC 297 Remains the same.

PSC 298 Disconnection of service.

[(a) Disconnection of service, permissible reasons. A utility may disconnect service to any customer for any reason stated below, (1) thru (10). The utility shall apply the customer's deposit plus accrued interest to any liability of the customer. Any remaining balance of the deposit plus interest which is not in liability to the utility shall be returned to the customer within ten (10) days of disconnection. Wherever required, notice must comply with the requirements of PSC 300.

(1) With notice a utility may disconnect service for nonpayment of bill only when the amount of the deposit plus accrued interest has been used to satisfy the incurred obligations.

(2) With notice a utility may disconnect or refuse service for failure of the customer to meet the deposit and credit requirements contained herein. This rule is subject to the requirements of PSC 298 (a)(1).

(3) With notice a utility may disconnect service to a customer who has violated the utility's rules on file with the Commission.

(4) With notice a utility may disconnect service to a customer who is in breach of the contract for service between the utility and the customer.

(5) Without notice a utility may disconnect service to a customer in the event of unauthorized use of utility equipment by the customer, or in the event of tampering with the utility's equipment.

(6) Without notice a utility may disconnect service to a customer in the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public. Disconnection for this reason does not require refund or forfeiture of deposit nor interruption of interest. No reconnect fee shall be charged by a utility to restore service which has been disconnected under this rule.

(7) With notice a utility may disconnect service to a customer for failure of the customer to provide the utility reasonable access to its equipment.

(8) With notice a utility may disconnect service to a customer for failure of a customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service.

(9) Upon written request by the customer, a utility may disconnect service to the customer entitled to otherwise disconnect service. Temporary disconnection of service for

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this reason does not require refund or forfeiture of deposit nor interruption of interest. A reconnect fee may be charged by a utility to restore service which has been disconnected for this reason.

(10) When determined by the Commission as prescribed by relevant state or other applicable standards or after individual hearing upon application of any person that the customer is willfully wasting service through improper equipment, a utility may disconnect service to a customer. The disconnection shall remain in effect as directed by the Commission.

(b) Non-permissible reasons to disconnect service.

(1) A utility may not disconnect service to a customer for delinquency in payment for services rendered to previous customer who occupied the premises unless said customer continues to occupy the premises.

(2) A utility may not disconnect service to a customer for failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service.

(3) A utility may not disconnect service to a customer for failure to pay for a different class of service.

(4) A utility may not disconnect service to a customer for failure to pay a charge billed because of an inaccurate meter, unless the customer and utility have agreed upon the amount due, or the amount due has been determined by these regulations, the Public Service Commission or the courts.

(5) A utility may not disconnect service to a customer for failure to pay an estimated bill for past services unless the customer, upon request of the utility, refuses to permit reading of the meter during reasonable hours.

(6) A utility may not disconnect service to a customer for failure to pay for a bill based on concurrent charges from another meter.

(7) A utility may not disconnect service to a customer for failure to pay for a bill to correct previous underbilling due to misapplication of rates, if the customer agrees to payment over a reasonable period of time.

(c) Landlord-tenant rule. In situations where the service is rendered at an address different from the mailing address of the bill, or where the utility has reason to know that a landlord-tenant relationship exists and that the landlord is

the customer of the utility; and where the landlord as customer would otherwise be subject to disconnection of service; the utility may not disconnect service until the following actions have been taken:

(1) Where it is feasible to so provide service the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in her or his own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.

(2) A utility shall not attempt to recover from a tenant, or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.]

A. Disconnection of service with notice-permissible reasons. With notice a utility may disconnect service to any customer for any reason stated below. Notice must comply with the requirements of PSC 300:

1. For failure of the customer to pay a bill for utility service when due,

2. For failure of the customer to meet the utility's deposit and credit requirements,

3. For failure of the customer to make proper application for service,

4. For customer's violation of any of the utility's rules on file with the Commission,

5. For failure of the customer to provide the utility reasonable access to its equipment and property,

6. For customer's breach of the contract for service between the utility and the customer,

7. For failure of the customer to furnish such service, equipment and/or rights of way necessary to serve the customer as shall have been specified by the utility as a condition of obtaining service,

8. When determined by the Commission as prescribed by relevant state or other applicable standards or after individual hearing upon application of any person that customer is willfully wasting service through improper equipment,

9. When necessary for the utility to comply with

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any order or request of any governmental authority having jurisdiction.

B. Disconnection of service without notice-permissible reasons. Without notice a utility may disconnect service to any customer for any reason stated below:

1. In the event of an unauthorized use of or tampering with the utility's equipment,

2. In the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public.

C. Temporary disconnection of service. A utility may temporarily disconnect service to a customer otherwise entitled to disconnect service, upon written request by said customer. Temporary disconnection of service for this reason does not require refund of deposit nor interruption of interest.

D. Non-permissible reasons to disconnect service. A utility may not disconnect service to any customer for any reason stated below:

1. Delinquency in payment for services rendered to a previous customer who occupied the premises unless the customer continues to occupy the premises,

2. Failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service,

3. Failure to pay for a different class of service,

4. Failure to pay for a bill based on concurrent charges from another meter,

5. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or billing error if the customer agrees to payment over a reasonable period of time.

PSC 299 [Cold weather rule.

(a) Notwithstanding the provisions of PSC 298(a), no utility shall disconnect residential service:

(1) on a day when the low temperature within the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below zero degrees fahrenheit, nor

(2) on a Friday or day before a legal holiday if the low temperature during the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below 32 degrees fahrenheit.

(b) If a residential service has been disconnected and not restored to service by the close of business on the disconnect date when the low temperature during the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below 32 degrees fahrenheit, the utility shall inform the local law enforcement department and the appropriate county welfare department by the close of business on the same date. The information provided shall be: (1) the billing name and service address at which the service was disconnected; and (2) that a threat to health and life might exist to persons occupying the premises.] **Reserved for future use.**

PSC 300 Notice: Other time requirements.

[(a) Where required, all notices required by these rules of impending action by the utility shall be by first class mail, except notice of disconnection must be by certified mail to the address where service is rendered and to the address where the bill is sent if different from the address where service is rendered.]

A. Where required by these rules, notice of impending action by the utility shall be by first class mail. Notice shall be sent to the address where service is rendered or to the address where the bill is sent if different from the address where service is rendered. A representative of the utility must make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer.

[(b)] **B.** All notices required by these rules must precede the action to be taken by at least five (5) days excluding Sundays and legal Holidays. No notice may be given until the condition of which it informs, presently exists.

[(c)] **C.** In lieu of mailing, [or if unable to reach by certified mail where required,] notices may be delivered by a representative of the utility. [They] **Such notices** must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of a responsible age or [affirmed in writing by the representative of the utility that delivery was attempted in good faith] **the utility representative must make an affidavit under oath that he delivered the notice to the customer or his residence.**

[(d)] **D.** A record of all notices **and all affidavits** required by these rules must be kept on file by the utility and must be made available to the Commission.

[(e)] **E.** Disconnection notices shall contain the date [of] **on or after which disconnection will occur**, reason for disconnection, and methods of avoiding disconnection in normal easy to understand language.

[(f)] A utility shall compensate a customer for any rea-

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sonable damages suffered which result from the action taken, if notice was required and it was incorrectly given.]

F. In addition to the above notice requirements, where the utility has reason to know that a landlord-tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as the customer would otherwise be subject to disconnection of service, the utility shall make a good faith attempt to inform the tenants of the utility's intent to discontinue such service. Notice required by this provision must precede the action to be taken by at least five (5) days excluding Sundays and legal holidays.

PSC 301 Manner of disconnection.

[(a) Service may not be disconnected if personal contact or contact by certified mail with the customer has not been obtained unless the utility has attempted on at least three (3) separate occasions in good faith to obtain personal contact.]

[(b)] **A.** Service may be disconnected only in conjunction with a personal visit by a representative of the utility to the address where the service is rendered. The representative of the utility shall at all times be capable of receiving payment, if nonpayment is the cause of the disconnection of service, or the representative shall be able to certify that the cause of disconnection has been remedied by the customer.

B. Service shall not be disconnected on any Friday, Saturday, Sunday or legal holiday, or at anytime when the utility's business offices are not open to the public.

PSC 302 Reconnection of service. [In the event service has been disconnected for valid cause by the utility, the customer shall, in addition to any new deposit requirements, pay a reconnect fee based on cost of reconnect as filed with tariff in addition to making a settlement satisfactory to the utility of the outstanding bill, before service is restored.]

A. In the event service has been disconnected for valid cause by the utility, the utility may charge a reconnect fee based on the cost of reconnection as stated in the utility's tariff on file with the Commission.

B. Notwithstanding the above provision, the utility shall not charge a reconnect fee for disconnection of service pursuant to PSC 298 B. 2.

PSC 303 Disputes. Whenever the customer advises the utility's designated [person] **representative** prior to the disconnection of service that any part of the billing as rendered or any part of the service is in dispute, the utility shall:

[(a)] **A.** Investigate the dispute promptly.

[(b)] **B.** Advise customer of investigation and its result.

[(c)] **C.** Attempt to resolve dispute.

[(d)] **D.** Withhold disconnection of service until the investigation is completed and the customer is informed of the findings in writing.

[(e)] **E.** Upon the findings of the utility, the customer must submit payment in full of any bill which is due.

[(f)] **F.** If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility. Such payment shall be called an "escrow payment."

[(g)] **G.** Escrow payments.

[(1)] **1.** To submit a payment in escrow, the customer must make payment of the amount due as shown on the bill through an "escrow payment form," clearly marked and provided by the utility.

[(2)] **2.** The "escrow payment form" must provide space for the customer to explain why the utility's resolution of the dispute is unsatisfactory to the customer. The form must be in three (3) copies, one of which will be retained by the customer.

[(3)] **3.** A copy of the "escrow payment form" must be forwarded by the customer to the Public Service Commission.

[(4)] $\frac{1}{2}$. Any escrow payment to the utility may be applied by the utility as any normal payment received by the utility.

[(4)] **5.** After escrow payment has been made, the customer and the utility may still resolve the dispute to their mutual satisfaction.

[(6)] **6.** By submitting the "escrow payment form" to the Commission, [a customer is requesting review of the dispute by the Commission] **the customer shall be deemed to have filed an informal complaint against the utility, pursuant to the Commission's Rules of Practice (PSC 500-521).**

[(7) Procedures by the Commission must insure the

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opportunity of a review by all parties to the dispute.]

7. Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a six (6%) per cent per annum interest charge from the date of payment to the date of return by the utility.

[(8) Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a payment by the utility of a fee of ten (10%) per cent of the amount found in error, which was paid to the utility through escrow payment.]

[(h)] **H.** The customer may apply to the utility to waive its right to disconnect. If the utility [with reasonable grounds] refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status. If the Commission determines the customer has a probable claim in the dispute and that hardship may result in the event of disconnection of service, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed thirty (30) days.

I. Notwithstanding anything herein to the contrary, the utility shall not be obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer shall pay, when due, all current bills rendered during the pendency. If, following the first filing for review with the Commission, the same customer or any other person, files for any subsequent review by the Commission pertaining to the same account, such subsequent filings shall not relieve the customer from the obligations to pay for service rendered after the first filing. If subsequent requests for review are filed during the pendency of the first review, all designated disputed payments or portions thereof made after the first filing shall be considered to be made into escrow.

PSC 310 Remains the same.

PSC 311 Meter reading and billing periods.

[(a)] **A.** Readings of all meters used for determining charges to customers shall be made each month unless otherwise authorized by the Commission upon petition by the utility. The term "month" for meter reading and billing purposes is the period between successive meter reading dates which shall be as nearly as practicable to thirty (30) day intervals. When a utility is unable to gain access to a meter, it shall leave a meter reading form for the customer.

[(b)] A utility may permit the customer to supply meter readings on a form supplied by the utility, providing a utility representative reads the meter at least once every twelve (12) months or at an interval determined upon petition to the

Commission and when there is a change in customers and when requested by the customer. This form should advise the customer of the utility's responsibilities to read the meter.]

[(c)] **B.** If the billing period is longer or shorter than the normal billing period by more than five (5) days, the bill shall be prorated on a daily basis.

PSC 312 Remains the same.

PSC 313 Billing content. [The utility shall bill each customer as promptly as possible following the reading of his or her meter. Each bill, including the customer's receipt, shall show the present and last preceding meter readings, the date of the present reading, the number and kinds of units metered, the class of service, the amount due, the date when the bill is due, the amount of state and local taxes, and the information required by customer complaint rule PSC 281 (c). Where applicable, bills shall show the net and gross amount of the bill and the date after which gross amount must be paid. Bills rendered at rates requiring the measurement of a number of different factors, including but not limited to, demand charges and energy charges, shall show all data necessary for the customer to check the computation of the bill. Estimated bills shall be distinctly marked as such.]

A. Bills rendered periodically to customers for electric and gas service shall include, but are not limited to, the following information:

- 1. The present and last preceding meter readings;**
- 2. The date of the present reading;**
- 3. Identification of the applicable rate schedule;**
- 4. The number and kinds of units metered;**
- 5. A complete itemization of all charges incurred at all levels of customer usage;**
- 6. The amount of the bill;**
- 7. The date on which the bill will become delinquent;**
- 8. Any late fee, if applicable;**
- 9. If an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;**
- 10. The amount of state and local taxes separately itemized;**
- 11. Fuel or power adjustment clause separately itemized, if applicable;**

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12. The information required by PSC 281 C.

B. If a utility is unable to comply with any provisions of PSC 313 A. within twelve (12) months of the effective date of the rule, the utility shall petition the Commission for either a temporary exception or a permanent exemption. The petition shall include the justification for non-compliance, the duration of the desired exception, and the plan for compliance.

PSC 314 Adjustment of bills, electric.

[(a)] A. Inaccurate meters.

[(1) Whenever a meter creeps or whenever a var meter or wathour meter installation is found upon test to have an average error of more than two (2%) per cent from one hundred (100%) per cent or a demand metering installation more than one and one-half (1.5%) per cent from one hundred (100%) per cent, a recalculation of bills for service shall be made for the period of inaccuracy. The recalculation shall be made on the basis that the service meter should be one hundred (100%) per cent accurate with respect to the working test standard.]

1. Whenever any meter is found upon test to have an average error of more than two (2%) per cent fast, the utility shall refund to the customer the overcharge. Whenever any meter is found upon test to have an average error of more than two (2%) per cent slow, the utility may charge for electricity consumed, but not included in the bills previously rendered. The refund or charge for both fast and slow meters shall be based on corrected meter readings for a period equal to one-half the time elapsed since the last previous test, but not to exceed six months, unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable certainty, in which case the refund or charge shall be computed to that date, but in no event for a period longer than three (3) years.

[(2) If the period of inaccuracy cannot be determined, it shall be assumed that the metering equipment has become inaccurate at a uniform rate since it was installed or last tested except as otherwise provided herein. Recalculation of bills shall be on the basis of actual bills except if the monthly consumption has been reasonably uniform, averaged less than five hundred (500) kilowatt-hour per month, and involved no billings other than kilowatt-hours, then the recalculation of bills may be based on the average monthly consumption and the inaccuracy may be assumed to have existed for a period equal to one-half the time elapsed since the meter was installed or since the last previous test,

whichever is later. Adjustments due to slow meters shall be limited to the preceding six (6) months except that a longer period may be authorized by the Commission. The error in registration due to "creep" shall be calculated by timing the rate of "creeping" and assuming that this "creeping" affected the registration of the meter for twenty-five (25%) percent of the time since the last test or since the meter was installed.]

2. When the average error cannot be determined by test because the meter is not found to register or is found to register intermittently, the utility may charge for an estimated amount of electricity used, which shall be calculated by averaging the amounts registered over corresponding periods in previous years or in the absence of such information, over similar periods of known accurate measurement preceding or subsequent thereto, but in no event shall such charge be for a period longer than three (3) years.

[(3) When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data.]

[(4)] **3.** If the recalculated bills indicate that more than one (\$1) dollar is due an existing customer or two (\$2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. **Credits shall be shown separately and identified.** If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility, upon demand made within three (3) months thereafter shall refund the amount due.

[(5)] **4.** If the recalculated bills indicate that the amount due the utility exceeds ten (\$10) dollars, the utility may bill the customer for the amount due. [The amount must be billed separately on a form different than the normal bill form and a complete explanation of the billing must be given. Any amounts paid by a customer which are not specifically paid on such a bill must be applied to the customer's last regular bill for service. The charge shall not show as arrears on any bill for service.] **The first billing rendered shall be separated from the regular bill and the charges explained in detail.**

[(6) No back billing from the time of notification by the customer will be sanctioned if the customer has called to

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the utility's attention his or her doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it.]

5. If a customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it, there shall be no back billing for the period between the date of the customer's notification and the date the meter was checked.

[(b)] B. Billing errors.

[(1) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, such as but not limited to: improper voltage, improper frequency or waveform, improper power factor, or errors due to temperature variation; the amount of the overcharge shall be refunded or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.]

1. When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer. The refund or charge, in no event, shall exceed one year, unless the date the error occurred can be fixed with reasonable certainty, in which case the refund or charge shall be computed from that date, but in no event for a period longer than three (3) years.

[(2) When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, such as but not limited to: improper voltage, improper frequency or waveform, improper power factor, or errors due to temperature variation; the amount of the undercharge may be billed to the customer. The utility may not bill for the amount of the undercharge which occurred more than six (6) months prior to adjustment. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing the amount can be shown as a separate item on the regular bill.]

2. If the recalculated bills indicate that more than one (\$1) dollar is due an existing customer or two (\$2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be

refunded to the customer. The refund to an existing customer may be in cash or credit on a bill. Credits shall be shown separately and identified. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility, upon demand made within three (3) months thereafter shall refund the amount due.

3. If the recalculated bills indicate that the amount due the utility exceeds ten (\$10) dollars, the utility may bill the customer for the amount due. The first billing rendered shall be separated from the regular billing and the charges explained in detail.

PSC 315 Adjustment of bills, gas.

[(a)] A. Inaccurate meters.

[(1) Whenever a meter is found to have an error of more than two (2%) per cent fast, a recalculation of bills for service shall be made for the period of inaccuracy assuming an inaccuracy equal to the maximum fast percentage. The recalculation shall be made on the basis that the service meter should be one hundred (100%) per cent accurate.]

1. Whenever any meter is found upon test to have an average error of more than two (2%) per cent fast, the utility shall refund to the customer the overcharge. Whenever any meter is found upon test to have an average error of more than two (2%) per cent slow, the utility may charge for the gas consumed, but not included in bills previously rendered. The refund or charge for both the fast and slow meter shall be based on the corrected meter reading for a period equal to one-half the time elapsed since the last previous test, but not to exceed six months, unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable certainty, in which case the refund or charge shall be computed from that date, but in no event, for a period longer than three (3) years. The average error for a meter tested shall be defined as one-half the algebraic sum of the error at full-rated flow plus the error at check flow.

[(2) If the period of inaccuracy cannot be determined, it shall be assumed that the full amount of inaccuracy existed during the last half of the period since the meter was last tested. If the recalculated bills indicate that more than one (\$1) dollar is due an existing customer or two (\$2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility shall, upon request made within three (3) months thereafter, refund the amount due.]

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2. When the average error cannot be determined by test because the meter is not found to register or is found to register intermittently, the utility may charge for an estimated amount of gas used, which shall be calculated by averaging the amounts registered over corresponding periods in previous years or in the absence of such information, over similar periods of known accurate measurement preceding or subsequent thereto, but in no event shall such charge be for a period longer than three (3) years.

[(3) Whenever a meter is found to be more than two (2%) per cent slow, the utility may bill the customer for the amount that the test indicates has been undercharged for the period of inaccuracy, which period shall not exceed the last six (6) months the meter was in service unless otherwise ordered by the Commission. For the purpose of this billing adjustment, the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow. No back billing from the time of notification by the customer will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it.]

3. If the recalculated bills indicate that more than one (\$1) dollar is due an existing customer or two (\$2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. Credits shall be shown separately and identified. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility, upon demand made within three (3) months thereafter shall refund the amount due.

[(4) Whenever a meter in service is found not to register, the utility may render an estimated bill, if the utility is not at fault in allowing the non-registering meter to be in service.]

4. If the recalculated bills indicate that the amount due the utility exceeds ten (\$10) dollars, the utility may bill the customer for the amount due. The first billing rendered shall be separated from the regular bill and the charges explained in detail.

5. If a customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it, there shall be no back billing for the period between the date of the

customer's notification and the date the meter was checked.

[(b)] B. Billing errors.

[(1) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.]

1. When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect connection of the meter, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer. The refund or charge, in no event, shall exceed one year, unless the date the error occurred can be fixed with reasonable certainty, in which case the refund or charge shall be computed from that date, but in no event for a period longer than three (3) years.

[(2) When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The utility may not bill the customer for the amount of the undercharge which occurred more than six (6) months prior to the adjustment. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing, the amount can be shown as a separate item on the regular bill.]

2. If the recalculated bills indicate that more than one (\$1) dollar is due an existing customer or two (\$2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. Credits shall be shown separately and identified. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility, upon demand made within three (3) months thereafter shall refund the amount due.

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3. If the recalculated bills indicate that the amount due the utility exceeds ten (\$10) dollars, the utility may bill the customer for the amount due. The first billing rendered shall be separated from the regular bill and the charges explained in detail.

PSC 317-324 Reserved for future use.

PSC 325 [Assurance of payment.] **Guarantee of payment.** [The utility shall not require deposit or guarantee of any customer or applicant for service who has established good credit. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment.]

(a) "New service" means service extended to or requested by any customer who has not received service as a customer for the preceding six (6) months. A utility shall not require a cash deposit or other guarantee of payment as a condition of obtaining new service unless a customer has an unsatisfactory credit or service standing with the utility due to any of the following:

(1) The customer or applicant has outstanding a prior utility service account with the utility which at the time of request for service remains unpaid and not in dispute.

(2) The service of a customer or applicant has previously been disconnected for any permissible reason which is not in dispute.

(3) The credit history as provided in these rules demonstrates that payment cannot be assured. The determination of an adequate credit history must be determined by objective criteria which shall be filed with the Commission in the utility's tariff. Such criteria must bear a reasonable relationship to the assurance of payment.

(b) "Existing service" means service presently being extended to a customer or which has been extended to a customer within the past six (6) months. A utility shall not require a cash deposit or other guarantee of payment as a condition of continuing existing service unless a customer has an unsatisfactory credit or service standing with the utility due to either of the following:

(1) The service of the customer has been disconnected or has been liable for disconnect for nonpayment of a bill which is not in dispute.

(2) The service of a customer has been disconnected or has been liable for disconnect for any permissible reason which is not in dispute.] **The utility may require a deposit or guarantee of payment from any customer or applicant who has not established good credit with that utility. Deposit or guarantee of payment requirements as**

prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment.

PSC 326 Permissible means of [assuring] **guaranteeing** payment.

[(a)] A. Deposit. [Where] **When** required, a customer may assure payment by submitting a deposit.

[(1)] 1. A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

[(2)] 2. [As a condition of obtaining service] All deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility.

[(3)] Deposits shall bear an interest rate of not less than six (6%) percent interest compounded annually unless otherwise determined by the Commission. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection.]

3. Interest shall be paid on deposits in excess of \$20.00 at the rate of six percent per year. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection. The utility may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

[(4)] Continuance of funds on deposit for a period of twelve (12) months shall constitute good credit and the deposit shall be refunded unless a further condition exists which would require continuing the necessity of assuring payment.]

4. The deposit shall be refunded to the customer after twelve (12) consecutive months of prompt payment of all utility bills. The utility may, at its option, refund the deposit by direct payment or as a credit on the bill.

[(5)] 5. With notice any deposit of a customer may be applied by the utility to a bill when the bill has been determined by the utility to be delinquent. [A utility may not disconnect service or shall not be entitled to demand an additional deposit until the deposit has been refunded or until the balance has been entirely used to pay an outstanding bill of the customer.]

[(6)] 6. Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within [ten (10)] **forty-five (45)** days to the customer.

[(7)] 7. A utility shall not require a deposit [or a

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guarantee of payment] of any customer without explaining in writing why that deposit or guarantee is being required **and under what conditions, if any, the deposit will be diminished upon return.** Each utility shall issue a receipt of deposit to each customer from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is unavailable.

[(b)] **B.** Guarantee of payment.

[(1)] **1.** The utility may accept, in lieu of a deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than twelve (12) months, but shall automatically terminate after the customer has closed and paid his or her account with the utility, or at the guarantor's request upon sixty (60) days' written notice to the utility.

[(2)] **2.** Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300.

[(3)] **3.** The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he or she has guaranteed unless the guarantor waives such notice in writing.

PSC 327 [Credit history and impermissible means of assuring payment.] **Good credit and impermissible reasons for guaranteeing payment.** [The utility may determine whether an adequate credit history has been shown, except as herein restricted:

(a) The customers credit history at the same or similar utility which would otherwise demonstrate good credit pursuant to these rules, shall be considered good credit before the utility.]

A. Good credit. The utility may determine whether a customer has established good credit with the utility, except as herein restricted: A customer, who within the last twelve (12) months has not had his service disconnected for nonpayment of a bill and has not been liable for disconnect for nonpayment of a bill which is not in dispute, shall be deemed to have established good credit.

[(b)] **B.** Impermissible [means] **reasons** [of] **for** [assuring] **guaranteeing** payment.

[(1)] **1.** [As a condition of new or existing service, or in determination of credit history,] A utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, **marital status**, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment of which is not authorized by these rules.

[(2)] **2.** [Credit history.] No utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of a customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit rating or credit service other than that of a utility shall not affect the determination of the utility as to that customer's credit history.

PSC 328 [Definitions: dispute and disconnect.] [The terms dispute and disconnect are defined in PSC 303 and PSC 295.] **Reserved for future use.**

PSC 329-334 Reserved for future use.

PSC 335 Information available to customers and the public.

[(a) The current "customer information" as prescribed in PSC 281 and all other information considered applicable by the Commission shall be kept on file in every station, office of the utility and where customer payments are received.

(b) Suitable signs shall be posted conspicuously at each such location calling attention to the public that the rules, regulations and rate schedules are so filed and available for inspection.]

[(c)] **A.** The utility shall retain customer billing, complaint, payment and deposit records for the length of time necessary to permit the utility to comply with the Commission's regulations; provided the utility shall retain these records for not less than three (3) years. A customer's own billing, complaint, payment and deposit records shall be available to that customer.

[(d)] **B.** Each utility shall have available for existing customers and applicants for service such information as is needed to obtain and maintain adequate, timely, and efficient service.

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[(e) Where a customer is eligible to take service under any one or more of two or more rates, the company shall advise the customer in the selection of the rate or rates which result in the lowest cost of service, based on the information at hand.

(f) Whenever there is a change of rates and whenever it is reasonable to do so, the customer shall be notified if any permissible change in classification will result in a lower cost of service.]

[(g)] C. Each utility shall furnish additional information as the customer may reasonably request.

PSC 336 Remains the same.

Filing of Annual Reports by Gas and Electric Utilities

Chapter Eleven

PSC 410 Definitions. For the purpose of PSC Rules 410-418, the following definitions shall apply:

A. "Commission" means the Minnesota Public Service Commission.

B. "Federally regulated" means the utility, excluding a municipally-owned utility, files an annual report, prescribed by the federal agency having rate making authority.

C. "FPC" means the Federal Power Commission.

D. "Public Utility" is defined in Minn. Stat. § 216B.02, subd. 4 and shall also include municipally-owned utilities.

E. "REA" means the Rural Electrification Administration of the United States Department of Agriculture.

PSC 411 General application.

A. Any public utility regulated under Minn. Stat. ch. 216B and subject to the provision of PSC Rules 350-352, Minnesota Uniform System of Accounts, is covered under the provisions of PSC Rules 410-418.

B. Each public utility shall file with the Commission a completed annual report as hereinafter prescribed in these rules on or before May 1 of each year covering its operation for the preceding calendar year.

C. In the event that a public utility has ceased operation through a merger or sale of any of its plant during

the calendar year, each of the involved public utilities shall be responsible for filing an annual report with the Commission which reflects the operations of the properties which were subject to such sale or merger.

D. Notwithstanding these rules, the Commission may require special report (s) concerning any matter under the jurisdiction of the Commission.

PSC 412 Annual report: electric public utility, federally regulated.

A. Each electric public utility subject to federal regulation shall file with the Commission one certified copy of the prescribed federal agency or authority annual report form (FPC Annual Report Form No. 1 or 1F).

B. Reports by an electric public utility which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.
2. Summary of the depreciation accrual for the year.
3. Materials and supplies.
4. Accumulated deferred income taxes.
5. Accumulated investment tax credit.
6. Statement of income for the year.
7. Operating revenues.
8. Operating and maintenance expenses.
9. Taxes charged during year.

C. Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 413 Annual report: gas public utility, federally regulated.

A. Each gas public utility subject to federal regulation shall file with the Commission one certified copy of the prescribed federal agency or authority annual report form (FPC Annual Report Form No. 2 or 2A).

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B. Reports by a gas public utility which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated deferred income taxes.

5. Accumulated investment tax credit.

6. Statement of income for the year.

7. Operating revenues.

8. Operating and maintenance expenses.

9. Taxes charged during year.

C. Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 414 Annual report: electric cooperative, REA corporation or association.

A. Each electric cooperative subject to REA regulation shall file with the Commission one certified copy of the prescribed REA annual report form (REA Form No. 7 and Form No. 7A).

B. Reports by an electric cooperative which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated investment tax credits.

5. Statement of income for the year.

6. Operating revenues.

7. Operating and maintenance expenses.

8. Taxes charged during year.

C. Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 415 Annual report: electric cooperative non-REA corporation or association.

A. Each electric cooperative not subject to REA regulation shall file with the Commission one certified copy of the prescribed REA annual report form or the prescribed Minnesota Annual Report.

B. Reports by an electric cooperative which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated deferred income taxes.

5. Accumulated investment tax credit.

6. Statement of income for the year.

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PROPOSED RULES

7. Operating revenues.
8. Operating and maintenance expenses.
9. Taxes charged during year.

C. Statements shall be included setting forth the method or basis used in making allocation between jurisdictions.

PSC 416 Annual report: electric and gas public utilities non-federally regulated.

A. Each electric or gas public utility not subject to federal regulation shall file with the Commission one certified copy of the prescribed federal agency or authority annual report or the prescribed Minnesota Annual Report.

B. Reports by an electric or gas utility which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserved by primary account.
2. Summary of the depreciation accrual for the year.
3. Materials and supplies.
4. Accumulated deferred income taxes.
5. Accumulated investment tax credit.
6. Statement of income for the year.
7. Operating revenues.
8. Operating and maintenance expenses.
9. Taxes charged during year.

C. Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 417 Annual report: municipally-owned utility. Each municipally-owned utility shall file one copy of the prescribed Minnesota Annual Report.

PSC 418 Additional reports. In addition to the above

mentioned reports, each public utility shall also include with its annual report filing, a copy of any financial, statistical or operational reviews or reports which public utility would prepare for distribution to stockholders, bondholders, patrons, or the appropriate governing authority.

Lobbying Expenditures for Gas and Electric Regulation

PSC 420 Definitions applicable to lobbying expenditures. For the purpose of PSC Rules 420-423, the following definitions shall apply:

A. "Commission" means the Public Service Commission.

B. "Lobbying expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing legislation or administrative action or supporting the election of any candidate to office. Lobbying expenditures also include:

1. the pro rata portion of salaries of lobbyists which represents the portion of their duties related to lobbying; and
2. their lobbying expenses.

C. "Lobbyist" means any individual or association engaged for pay or other consideration or authorized by a public utility to spend money who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

D. "Public utility" is defined in Minn. Stat. § 216B.02, subd. 4 and shall also include municipally-owned utilities.

E. "Utility non-operating expense" means expenditures associated with activities other than those resulting from the regular activity of supplying energy and service to the consumer.

F. "Utility operating expense" means expenditures associated with the direct or regular activity of supplying energy and service to the consumer.

PSC 421 General application.

A. PSC Rules 420-423 apply to each public utility

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regulated under Minn. Stat. ch. 216B including each municipally-owned utility.

B. Each public utility shall maintain accounts and records relating to lobbying expenditures and make them available for inspection by the Commission upon request.

C. Each public utility shall report lobbying expenditures in accordance with PSC Rule 422, and on 30 days notice at such time as the Commission deems necessary to carry out its regulatory responsibilities.

PSC 422 Accounting treatment, lobbying expenditures.

A. Each public utility shall cause sub-accounts to be established for the sole purpose of record lobbying expenditures.

1. Lobbying expenditures for utility operating expense shall be charged to a sub-account of Miscellaneous General Expenses.

2. Lobbying expenditures for utility nonoperating expense shall be charged to a sub-account of Other Income Deductions.

B. The above accounts shall be effective the first day of January of the year following the year in which this regulation becomes effective for any expenditures subsequent to that date.

PSC 423 Reporting requirements.

A. Each public utility which has incurred lobbying expenditures shall file with the Commission by the first day of April each year a report of such lobbying expenditures for the prior calendar year. The report shall include the following information:

1. Name and address of the utility.

2. Officer responsible for the report.

3. As to each lobbyist:

a. Name and address.

b. A general description of the subject or subjects in which the lobbyist was actively associated.

4. Expenditures for the period classified by subject.

5. Name and address of each utility sharing expenditure if joint venture.

B. Each public utility which has not incurred any lobbying expenditures during the previous calendar year, shall file with the Commission by the first day of April in the following year a statement by an officer attesting that it had no lobbying expenditures.

Department of Public Welfare Audits Division Determination of Welfare Per Diem Rates for Providers of Residential Services for the Mentally Retarded

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room A, Veterans Service Building, 20 West 12th Street, at Columbus Avenue, St. Paul, Minnesota on February 11, 1977 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written material may be submitted by mail to Steve Mihalchick, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8112, either before the hearing or within 20 days after the close of the hearing.

The proposed rule, if adopted would clarify the original rule intent to establish a rate methodology for the providers of residential services for the mentally retarded. The rate methodology would require an occupancy factor of no less than 80% for facilities of more than 10 beds. The rate methodology would also require cost changes to be substantiated in written commitments and any overpayments or underpayments would be made directly between the provider and the administrator of the source of governmental funding for the particular provider. The rate methodology would include two exceptions to the overall maximum rate limitation. The rate methodology would also require a lim-

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itation to top management compensation. The rate methodology would be effective for cost reporting periods beginning in calendar year 1977. Copies of the proposed rule are now available and one free copy may be obtained by writing to Jacqueline Bouvaird, Audits Division, Department of Public Welfare, Centennial Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. §256B.04, subd. 2. A "Statement of Need" explaining why the agency feels the proposed rule is necessary and a "Statement of Evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. State. §10A.01, subd. 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of this rule, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Vera J. Likins,
Commissioner

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Rules as Proposed

DPW 52 Regulations for determining welfare per diem rates for [Intermediate Care Facilities/Mentally Retarded] providers [under the Title XIX Medical Assistance Program] of **residential services for the mentally retarded.**

A. Applicability and purpose.

1. Authority.

This regulation is enacted pursuant to the statutory authority vested in the Commissioner of Public Welfare pursuant to Minn. Stat. § 256B.27, to require reports, information, and audits, and, pursuant to Minn. Stat. § 256B.04, subd. 2, to promulgate rules, and regulations for carrying out and enforcing the provisions of Minn. Stat. ch. 256B. This regulation is further promulgated pursuant to the procedures set out in Minn. Stat. § 15.0412, of the Minnesota Administrative Procedures Act.

2. Objectives.

The procedures embodied herein define a system for the determination of a per diem welfare rate for all [ICF/MR] **residential facilities for the mentally retarded** with more than four beds participating in the Medical Assistance and cost-of-care program, except state institutions that are governed by other state laws, that promotes efficiency and economy and treats all providers [of ICF/MR care] on a uniform basis. [ICF/MR] **Facilities for the mentally retarded** are defined as facilities licensed under the provisions of Minn. Stat. § 252.28. [ICF/MR] **Facilities which** provide care to other than **mentally retarded** residents must comply with these regulations if mentally retarded persons account for more than 50 per cent of the facility population. Procedures have been defined to satisfy the State Plan for Medical Assistance and HEW Program Regulation Guide 19, which prescribe reasonable charge/cost related rate-setting methods. The rate-setting procedures have also been defined to comply with the state statute that requires that cost differences between individual providers be recognized [Minn. Stat. § 256B.04, subd. 2] while at the same time establishing cost limitations to satisfy federal requirements requiring that the welfare rates be consistent with efficiency, economy, and quality of care.

The welfare rate-setting procedures included herein also recognize required residential classification and quality of care as defined by Department of Public Welfare licensing and federal certification standards, established effective

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accountability over the disbursement of Medical Assistance appropriations, and provide for a regular review mechanism for rate changes.

While the rate-setting procedures are intended to compensate the provider for the reasonable costs incurred by prudent management including a return of capital through depreciation and earnings allowance, they are not intended to provide funds for financing working capital needs or purchase of facilities. It is not intended that the regulations provide for reimbursement of actual costs through retroactive settlement.

B. Rate determination.

1. Method of calculating welfare per diem rate.

a. Historical rate. The method of calculating the [ICF/MR provider] per diem rate will be to determine reasonable costs for the most current fiscal year and divide by actual resident days according to reasonable cost provisions of D. and cost reporting regulations contained in C. **Such rate shall be based on occupancy of no less than 80%. The 80% occupancy factor shall apply only to facilities of more than 10 beds.**

b. Incentive factor. In no case will the historical rate so determined under B.1.a. be less than a comparable amount calculated for the previous year minus one-half of the difference. This provision shall not apply for rates for newly established providers under B.3.a.

c. Allowance for known cost changes.

(1) Future cost increase or decreases known as of the report filing date must be added to or deducted from the historical rate determined according to B.1.a. and b. Such adjustment will be restricted to the elements defined in B.1.c.(1) (a) through (k) and shall be the annualized cost effect of such cost changes exclusive of any portion of cost change included in the historical rate.

(a) Salary and wage changes to occur during the effective period of the welfare rate:

(i) Future changes according to labor contracts, board resolutions, written policies, or minimum wage laws.

(ii) Changes that are in effect as of the end of the fiscal period covered by the historical cost portion of the welfare per diem rate.

(b) Changes in facilities or equipment.

(c) The annualized cost effect of complying with federal, state, or local laws and regulations on increased care or improved facilities.

(d) Taxes — payroll and property.

(e) Interest.

(f) Depreciation.

(g) Utilities and insurance.

(h) Food-cost changes based on the average cost for the last three months of the fiscal period covered by the historical cost portion of the welfare per diem rate.

(i) The cost effect of reductions and expansions to program services approved by the Department of Public Welfare.

(j) The cost effect of changes in occupancy levels based on average occupancy for the last three months of the fiscal period covered by the historical cost portion of the welfare per diem rate.

(k) Rental payments pursuant to a written lease.

(l) Unidentified cost increase equal to one per cent of the average historical cost per day for the metropolitan area as indicated in B.4.b.

(2) Cost changes determined under this provision must be based upon facts and commitments in existence as of the filing date of the report. If the provider cannot substantiate the fact that such facts and **written** commitments did exist as of the filing date, the welfare rate will be subject to adjustment according to the provisions of B.2.c. and C.1.i. If known cost changes calculated under (a) through (k) above do not in fact occur, the welfare rate will similarly be subject to adjustment under B.2.c. If actual cost increases exceed the known cost changes determined under (a) through (l) above, no adjustment in welfare rate will be made.

(d) Government grants for operations during the prospective rate period must be deducted from the welfare per diem rate either calculated in B.1.a., b, and c, or elected in B.3.b.

2. Effective date, notifications, and adjustments.

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a. Effective date. A new per diem rate determined by the Department will be effective the first day of the month following the provider's normal fiscal year-end except in instances in which penalty provisions of C.1. and E.2. are applicable. If the new rate results in a lower rate than the previous rate, the provider has 120 days after the original filing date in which to pay back any difference received during the period the new rate was to be effective. If the new rate results in a higher rate than the previous rate, payment shall be made to the provider within 45 days after receiving notification of the rate adjustment.

b. Notification of rate decision. A temporary rate notification consisting of the previous year's allowed historical cost per resident day plus 80% of the indicated allowed known cost changes per resident day will be issued and paid on receipt of the report. The Commissioner will notify the provider, in writing, and the respective county welfare boards of the rate determined under these regulations as well as the effective date of such rate. Included in this notification will be a detailed statement of the reason for any difference between the rate requested by the provider and the rate determined.

c. Adjustment for error or omissions. All rates determined according to DPW 52 may be subject to adjustment as a result of errors or omissions determined through audit of the provider's accounting and statistical records or by amended reports as provided by C.1.i. Such adjustments are limited to the three complete fiscal years preceding the date on which an audit commences. If the adjustment results in a payment from the provider (to the county welfare board(s), the provider will have up to) **payment shall be made by the provider** within 120 days after the date on which the provider received written notification of the adjustment. If the adjustment results in a payment [from the county welfare board(s)] to the provider, payment shall be made within 45 days after the date of receiving written notice of the adjustment.

3. Special rate-setting procedures.

a. New facilities.

(1) Required reports. Providers with newly constructed established facilities can request an interim welfare rate. The provider must submit reports as required in B.1.a. for immediate future fiscal year forecast results.

(2) Report compliance. Reports will comply with all applicable sections of these regulations governing cost finding, reporting, and allowable costs, to the extent feasible in the individual circumstances. Noncompliance with any provision of these regulations must be so stated, together with the reasons why the provider cannot comply.

(3) Interim-rate establishment. The Commis-

sioner will establish an interim rate in accordance with B.1. retroactive to the first day on which a Medical Assistance recipient is placed in the home. Such rate shall be subject to retroactive upward or downward adjustment in accordance with all provisions of DPW 52 except B.1.b. on the basis of first cost report covering actual results for the period to which the rate has been applied. Adjustments to the interim rate will be in accordance with B.1.a. and C.1.j. Such rate shall be subject to retroactive upward or downward adjustment based on occupancy of no less than 80%. The 80% occupancy factor shall apply only to facilities of more than 10 beds. Adjustments to the interim rate may be made at the option of the provider either at the end of the provider's first fiscal year or after six months of historical cost experience. The settlement must be based on at least six months of historical cost and statistical experience. Occupancy for the immediate fiscal year must be based on an annualization of the last three months of the interim fiscal year but not less than 90% occupancy.

[b. Election of flat rate for small providers. Providers with a capacity of 16 or fewer licensed beds may annually elect to receive a flat per diem rate for providing required care of welfare residents instead of receiving a rate by complying with reporting requirements of C.1. These rates will be reviewed and adjusted annually, if warranted, by the Commissioner through policy bulletins. All facilities under common ownership or management must accept either the flat rate for all facilities or file cost reports for each facility. The flat rate for all regions will be \$9.00 per resident day effective January 1, 1976 and will expire at the end of each provider's current fiscal year. Reports under II.A.1. will then be required with exceptions to reporting requirements under III.A. based on written request from provider and approval for such exceptions from the Commissioner.]

4. Rate limitations.

a. Limitations based on private pay rates or relevant federal or state laws and regulations. Notwithstanding any other provisions of these regulations, the established provider rates for residential service will not exceed the normal provider's rate charged private residents for comparable residential services. This rate limitation shall be applied when the welfare rate is anticipated to exceed the private pay rate for a comparable time period. Welfare rates may further be limited by federal laws or regulations that affect the Medical Assistance Program. Rates charged for respite beds must be identified as a private pay rate.

b. Over-all rate limitation. Welfare rates will be limited to a fifteen per cent increase over the previous welfare rate. The fifteen per cent limitation does not apply to [minimum, immediate requirements imposed by federal, state, and local laws and regulations as] **the following cost changes** identified under Section B.1.c.(1):

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(1) **Salaries for additional personnel, depreciation and interest expense for physical plant improvements or other fixed assets, and changes in licensed capacity insofar as these cost changes are incurred to meet minimum and immediate requirements imposed by federal, state, or local laws and regulations.**

(2) **Salary cost changes which exceed 6% of the historical salaries if the salary cost changes are reasonable and are required to bring facility salaries to the salary range of comparable facilities. The salary cost changes for top management compensation, the administrator, and additional personnel are excluded from this exception.**

c. Facilities that have a non-calendar year-end and have been previously subject to the rate limitation may adjust the rates to the new rate limitation if previously justified by the reports. The rate limitation will not apply to providers whose welfare rate request does not exceed \$19.00 per resident day for facilities located in the 7-county metropolitan area and \$16.00 per resident day for facilities located outside the stated metropolitan area.

5. Appeal procedures.

a. **Scope of appeals procedures.** These procedures describe the manner by which unresolved individual provider or country welfare board disputes that may arise about application of these regulations excluding regulation B.5. will be settled. Unresolved disputes are defined as those disagreements that cannot be resolved informally between the provider and the Department staff normally assigned responsibility for administration, or the provider and a county welfare board.

b. **Appeals examiner.** Unresolved disputes will be heard by a staff person from the State of Minnesota's Hearings Examiner Office.

c. **Time limit.** The provider, or the county, has 30 days to appeal from the date of the Department's notification of the new per diem rate.

d. **Appeal procedure.** If the provider and the Department's staff normally assigned responsibility for administration or the provider and a county welfare board cannot agree to a settlement of the dispute, then each party will submit in writing the facts, arguments and any other appropriate data to the Hearings Examiner. The Examiner will review the dispute, request additional information or analyses to be submitted by the Department or the provider,

and then recommend to the Commissioner disposition of the dispute. Because existing state law does not permit the Commissioner to delegate his powers, final authority on disposition of disputes must be retained by the Commissioner.

e. **Effective date of resolved disputes.** If the dispute is related to a change in the provider's rate, the amount in dispute will not be adjusted until final determination according to these appeal procedures is made. The total dollar amount due the provider or the country resulting from the resolved disputes will be subject to the payment provision of B.2.c.

f. **Findings and conclusions.** Any findings, conclusions, or opinions of the Hearings Examiner about any appeal will be made available to the provider and will become part of the Department record.

C. Reports.

1. **General reporting requirements and submittal procedures.**

a. **Required reports.** Except as provided by B.3.b., to receive a per diem rate for providing care to welfare recipients, the provider must submit reports covering the provider's normal fiscal year conforming to the uniform accounting system defined in forms supplied by the Department. Reports, supporting documentation, and worksheets will consist of the following:

(1) **General provider information and statistical data.**

(2) **Financial statements consisting of a comparative balance sheet, statement of changes in equity, and comparative statement of earnings or operations.**

(3) **Reports of historical costs and known changes together with supporting calculations and worksheets.**

(4) **Rate determination worksheets.**

(5) **All other data relevant to justification or support of the welfare rate as deemed necessary by the Commissioner or designated representative.**

Specific report formats and preparation instructions will be contained in a provider manual prepared and revised periodically by Department personnel. Copies of said manual will be made available to all interested parties through

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the Documents Section of the Department of Administration. Newly established providers or providers who change their fiscal year must file short-period reports if the period covered is more than five months. Providers who have major program changes approved by the Department of Public Welfare may submit an amended report to show the change in costs due to the program change. The cost effect of the program change must be at least \$2,000 for the remainder of the provider's reporting period in order for him to submit an amended report.

b. Method of accounting. The accrual basis of accounting in accordance with generally accepted accounting principles shall be the only method acceptable for purposes of satisfying reporting requirements. In a unique situation such as the use of government providers, the use of the accrual basis of accounting may not be applicable. In such an instance, the Commissioner may permit the provider to use a cash or modified cash basis of accounting if the provider can establish that no difference in rate would result.

c. Records. The provider, where applicable, will maintain statistical and accounting records to support information in no less detail than that required by C.1.a. required reports. The provider shall also make available federal and state income tax returns upon request of Department personnel.

d. Report certification.

(1) Reports required in regulation C.1.a. will be accompanied by a certification of (1) the majority owner defined as the person having over 50 per cent effective ownership, or the chief financial officer if there is no majority owner, and (2) the administrator or the chief operating executive. If reports have been prepared by someone other than the above individual, a separate statement signed by the preparer shall be included stating the terms of the preparer's employment.

(2) If the provider has either audited or unaudited financial statements prepared by an independent public accountant, such statements must be submitted as a part of reports required by C.1.a.

e. Reporting deadlines and extensions.

(1) Deadlines. Required reports shall be submitted directly to the Department within three calendar months after the close of the provider's normal fiscal year.

(2) Report deadline exceptions. The Commissioner may grant exceptions to the reporting deadline for just cause. A routine extension of 60 days will be granted when a written request is received by the Department prior to the reporting deadline.

f. Penalties

(1) Report preparation and submittal. The penalty for noncompliance with C.1.a. and C.1.e. will be to reduce the reimbursement rate to 80 per cent of the rate then in effect on the first day of the fourth calendar month after the close of the provider's normal fiscal year. This penalty is not to apply for minor errors and omissions on reports. If the required reports are subsequently submitted, retroactivity of the established rate will be limited to the first day of the month following the month in which acceptable reports are received, unless retroactivity to a prior date is otherwise designated by the Commissioner.

(2) False reports. Incorrect or false information supplied by the provider on required reports resulting in overpayments to the provider will result in one or more of the following:

(a) Immediate adjustment of the welfare rate, along with retroactive recovery by the county welfare board of funds incorrectly paid to the provider.

(b) Termination of the provider contractual agreement.

(c) Prosecution under applicable federal and Minnesota statutes.

g. Audits. All reports will be subjected to desk audit and may be subjected to field examination of supporting records and compliance with regulations by state and federal auditors or auditing firms under contract to the state. If such audits reveal inadequacies in provider record keeping and accounting practices, the Commissioner may require that the provider engage competent professional assistance to properly prepare required reports. Penalties of C.1.f. (1) or (2) may be applied to ensure compliance with this provision.

h. Application of reasonable cost principles. Reports required by C.1.a. must be prepared in accordance with reasonable cost principles in D.

i. Amended reports. Providers may file amendments to previously filed reports when mathematical errors or omissions are uncovered or when federal or state minimum wage law changes occur unexpectedly. The cost changes to comply with minimum wage laws will be limited to the wage increases required to meet the minimum standards of federal or state wage laws. Such changes in the welfare per diem rate must result in at least a five cent per patient day or \$2,000 adjustment, whichever is less for each annual period.

2. Special provisions for multi-home providers and providers involved in other business activities.

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a. Charges from related organizations. Cost applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization. If the related organization in the normal course of business sells services, facilities or supplies to the outsiders, the cost to the provider shall not be greater than the outsider's price; however, sales to outsiders must constitute at least 25 per cent of its sales.

b. Cost allocation of top-management salaries and management fees. The allocated portion of compensation for the chairman of the board, directors, presidents, or other similarly titled individuals and other corporate charges or costs allocated to an ICF/MR facility must represent the cost of services actually rendered and be identified according to the type of service provided.

3. Definitions.

a. Cost categories. Costs used for rate-setting purposes and related to resident care are to be grouped according to major cost categories used in required reports. Such categories are defined as follows:

(1) Resident living. All directly identifiable personnel costs associated with residential service. Personnel costs to be included are the salaries of the director of residential-living, supervisors of residential-living staff, and residential-living staff.

(2) Developmental services. All directly identifiable costs of developmental services, such as training, rehabilitation, and social services not separately reimbursed according to C.3.b.(10).

(d) Health services. All directly identifiable costs related to health services not separately reimbursed according to C.3.b.(10). Costs will include personnel, purchased services, and supplies.

(4) Resident related services. All directly identifiable costs of resident-related services, such as recreation, religion, arts, and crafts, and leisure time activities not separately reimbursed according to C.3.b.(10). Costs will include personnel, purchased services, and supplies.

(5) Food services. All directly identifiable costs of normal and special diet food, including food preparation and serving. Personnel costs to be included in dietary costs

are the salaries of dieticians, chefs, cooks, dishwashers, and all other employees assigned to the kitchen and dining room.

(6) Laundry and linen. All directly identifiable costs of linen and bedding, laundering, and laundry supplies. Personnel costs to be included in laundry are the salaries of laundry employees, seamstresses, laundrymen, and ironers.

(7) Housekeeping. All directly identifiable costs of housekeeping, including cleaning and lavatory supplies. Personnel costs to be included are the salaries of housekeepers, maids, and other cleaning personnel.

(8) Plant operation and maintenance. All directly identifiable costs for maintenance and operation of the buildings and grounds, including fuel, electricity, water, supplies, and parts to repair and maintain equipment and facilities, and tools. Personnel costs to be included are the salaries of engineers, painters, heating plant employees, plumbers, electricians, carpenters, and watchmen.

(9) General and administration. All directly identifiable costs for administering over-all activities of the facility, including business-office functions, travel expense, motor vehicle operating expense, telephone charges, office supplies, advertising, licensing fees, and professional services. Personnel costs are the salaries of administrators, assistant administrators, accounting personnel, and all clerical personnel. Also included in administration are fringe benefit costs of all employees, such as employment taxes, health insurance, pensions, and life insurance; also included are other costs not otherwise classified under definitions in C.3.a.

(10) Miscellaneous nonreimbursable services and expenses.

(a) All directly identifiable costs of functions normally reimbursed by charges to residents, employees, or outsiders, such as the operating costs of a pharmacy, beauty shop, or coffee and gift shop, are included here.

(b) Also included are specific costs that may be incurred by the provider and reimbursed separately according to a fee schedule. These include but are not limited to the following:

(i) Services provided by licensed medical, therapeutic, or rehabilitative practitioners.

(ii) Oxygen at prevailing prices.

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PROPOSED RULES

(iii) Wheel-chair alterations for specific Medical Assistance recipients.

(c) Also included in this section will be costs associated with operating activities financed by restricted or unrestricted gifts or grants from private or public funds. Costs deemed unallowable under Section D. of the rule can be identified as offsets from such gifts or grants.

(d) All costs classified in C.3.a.(10) are not allowable for purposes of determining a per diem rate under these regulations.

b. Resident days.

(1) General definition. For purposes of determining a per diem rate, a resident day is defined as a day for which full and normal billings were rendered.

4. Cost-allocation procedures.

a. General provisions for all providers.

(1) Costs will be classified in accordance with categories defined in C.3.a.

(2) Classification of costs to cost categories C.3.a. will involve one or more of the following steps:

(a) Direct identification, without allocation, which will be accomplished in the routine classification of transactions when costs are recorded in the books and records of the provider.

(b) Other costs that cannot be classified to cost categories through use of procedure C.4.a. (2) (a) will be classified in the administrative category.

(3) Adjustments for costs otherwise reimbursed. Recorded costs will be reduced for costs related to other activities not subject to rate determination as defined in C.3.a.(10).

b. Allocation of non-allowable personal expenses for owners living in the facility. Allocation procedures are defined in the following sections and must be applied in the order stated for personal expenses included in the expenses of the facility.

(1) Food services.

(a) Cost allocation based on the number of meals served.

(b) Cost allocation based on actual resident days.

(2) Laundry and linen, housekeeping, and plan operations and maintenance.

(a) Cost allocation based on actual resident days.

(3) Depreciation, interest, and real estate and personal property taxes.

(a) Allocations based on the ratio of square feet of floor space devoted to personal use.

(b) Cost allocation based on actual resident days.

c. Allocation of costs for providers of care other than ICF/MR or nursing homes. Reasonable cost allocations must be made for costs associated with care other than ICF/MR or nursing home.

D. Reasonable cost principles.

1. General provisions.

a. Reasonable costs. Costs to be allowable for rate-setting purposes must satisfy the following over-all criteria:

(1) They must be necessary and ordinary costs related to resident care.

(2) They must be costs that prudent and cost-conscious management would pay for a given item or service.

b. Costs not allowable. Costs that relate to management inefficiency, unnecessary care or facilities, and activities not related to the MR field are not allowable.

c. Reasonable compensation. Reasonable compensation of individuals employed in the facility is an allowable cost, provided that the services are actually performed in a necessary function and the costs reported are actually incurred. To be reasonable the compensation allowance must be such an amount as would ordinarily be paid for comparable services by comparable facilities. To be necessary the function must be such that had the individual not rendered the services, the facility would have had to employ another person to perform the services. The function must also be pertinent to the operation and conduct of the facility. Where the services are rendered on less than a full-time basis, the allowable compensation should reflect an amount proportionate to a full-time basis. Compensation shall include payment to individuals as well as to organizations of non-paid workers that have arrangements with the provider for the performance of services by non-paid workers.

d. Substance over form. The cost effect of transactions that are conceived for the purpose of circumventing the regulations contained in DPW 52 will be disallowed under the principle that the substance of the transaction shall prevail over form.

PROPOSED RULES

e. Costs due to changes in federal or state requirements. Costs incurred to comply with changes in federal or state laws and regulations on increased care and improved facilities are allowable costs for purposes of determining a historical per diem rate under B.1.a.

f. Reduction in costs. Purchase discounts, allowances, and refunds are a reduction of the cost of whatever was purchased.

g. Annual review of cost limitations. The Commissioner shall review annually the depreciation basis limitation D.3.b. and adjust the limitations accordingly if justified by current data. The data used as a basis for this determination shall be made available to all providers.

h. Application of principles and specific limits. The reasonable cost principles defined in D.1. apply to all reported costs and have been specifically defined for certain cost elements in D.2. through D.5.

i. Top-Management compensation limitation. Top management compensation includes that of administrators, board of directors and all other individuals receiving compensation as executives. [The annual compensation for rate-setting purposes will be limited to compensation for no more than 60 cumulative employment hours per week and] **The compensation must also be justified under the provisions of Section D.1.c. of the rule. The annual compensation will be determined according to the total number of licensed beds per facility as follows:**

<i>Number of Beds</i>	<i>Cumulative Annual Bed Compensation</i>
1-30	\$435
31-60	240
Over 60	180

For facilities of 30 beds or less the administrator's salary may be allocated between varied functions performed by the administrator if justified through review of personnel complement by licensing personnel. The maximum compensation limitation shall be \$35,000 **per facility**.

[If an individual or group of individuals are included in the definition of top management compensation and own and/or operate more than one facility, the total compensation for an individual or group of individuals shall be computed based on the cumulative number of beds in all facilities and shall be limited in total of \$35,000.]

2. General and administrative expenses.

Reasonable cost criteria for general and administrative expenses are as follows:

a. Owners life insurance. The costs of premiums are not allowable.

b. Personal expenses. Personal expenses of owners or employees, such as homes, boats, airplanes, vacation expenses, etc., are not allowable costs. The costs of residences for administrators and key staff are allowable costs if such costs together with other compensation are reasonable.

c. Professional, technical, or business-related organizations. These costs are allowable if their function and purposes can be reasonably related to the development and operation of ICF/MR facilities and programs for the rendering of resident-care services.

d. Social, fraternal, and other organizations. Costs incurred in connection with memberships in all organizations not included in D.2.c. are not allowable.

e. Travel and automobile. These expenses are not an allowable expense unless they are related to activities of managing the ICF/MR facility.

f. Entertainment. These expenses are not allowable costs.

g. Advertising. Costs incurred in connection with maintaining or maximizing occupancy are allowable.

h. Pension plans and profit sharing. Contributions to either an Internal Revenue Service-approved pension or profit sharing plan, but not both, are allowable costs.

i. Employee education costs, orientation, and on-the-job training. Costs relating to providing improved resident care or, where required by state law, are allowable costs. If part or all of these costs are reimbursed by private or public funds, only the excess of cost over reimbursed funds are allowable costs. All such costs should be included in respective cost categories C.3.b. unless not identifiable.

j. Training programs for non-employees. Costs of training programs conducted for non-employees other than for volunteers are not allowable.

k. Telephone, television, and radio service. These are allowable costs where furnished to the general resident population in areas of the living unit, recreation rooms,

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PROPOSED RULES

lounges, etc. The costs of these services when located in a resident's private accommodation are not allowable.

1. Non-competitive agreement. Costs of these agreements are not allowable.

m. Pre-opening costs. One-time pre-opening costs of new facilities incurred prior to admittance of residents must be capitalized as a deferred charge. Costs in the form of amortization will be recognized as allowable costs over a period of no less than 60 consecutive months beginning with the month in which the first resident is admitted for care. Examples of these costs are wages paid for services rendered more than 30 days prior to the opening of the facility. Construction financing, feasibility studies, and other costs related to construction must be depreciated over the life of the building.

n. Bad debts. Amounts considered to be uncollectible resident accounts are not allowable costs.

o. Fund-raising costs. Costs incurred for such purpose including advertising, promotional, or publicity costs are not allowable in the year in which they are incurred except in the form of amortization as allowed by D.5.a.

p. Charitable contributions. These are not allowable costs.

3. Depreciation.

a. Basis for depreciation calculation.

(1) Cost. Historical cost of ICF/MR facilities shall be the basis for calculating depreciation as an allowable cost, except as provided by D.3.a.(2).

(2) Change in ownership of facilities. In a case in which a change in ownership of an ICF/MR facility occurs, and the new owner's investment is greater than the old owner's investment, if a bona fide sale is established by the new owner, the basis for depreciation will be adjusted as follows:

(a) In the case of a complete change in ownership, the basis for calculating depreciation will be the lower of:

(i) The portion of the purchase price properly allocable to depreciable ICF/MR facilities, or

(ii) The appraised value of the depreciable ICF/MR facilities calculated under the reproduction-cost-depreciated method.

(b) In the case of a partial change in ownership, as defined below, the basis for calculating depreciation

shall be determined according to provision of D.3.a.(2) (a), the case of a complete change in ownership, except that all relevant figures will be placed on a scale proportionate to the percentage of ownership change. For purposes of this provision, a partial change in ownership occurs only in the case of an organization with ten or fewer owners, after the change in ownership, and when the ownership change exceeds 20 per cent. Any increase allowed by this section will then be adjusted according to D.3.a.(6).

(3) Redemption of ownership interests. In a case in which the remaining owners establish the fact that a bona fide redemption of an ownership interest has occurred, the basis for calculating depreciation will be increased by the excess, if any, of the redemption price over the former owner's investment. The adjusted basis shall be determined by applying the provision of D.3.a.(2) (b).

(4) Donated assets. The basis of donated assets, except for donations between providers or related parties, shall be fair market value defined as the price that an able buyer would pay a willing seller in an arms length sale or appraised value defined in D.3.a.(2) (a) (ii), whichever is lower. An asset is considered donated when the provider acquires the asset without making any payment for it in the form of cash, property, or the services. In the instance of the exception stated, the net book value to the donor shall be the basis for the donee.

(5) Subsequent acquisitions. The basis for calculating depreciation may be increased for the actual cost of equipment additions or facility modification or renovation.

(6) Recapture of depreciation resulting from sale of facility. The sale of depreciable ICF/MR property, or substantial portion thereof, at a price in excess of the cost of the property as reduced by accumulated depreciation used for purposes of computing allowable costs was greater than the actual economic depreciation.

(a) The amount of the recapture will be determined as follows:

(i) The gross recapture amount will be the lesser of the actual gain on the sale or the depreciation after the effective date of DPW 52.

(ii) The gross recapture amount as determined in (i) above shall be allocated to fiscal periods from the effective date of DPW 52 through the date of sale. The gross recapture amount shall be allocated to each fiscal period in the same ratio as depreciation amounts claimed under DPW 52. The amount allocated to each period shall be divided by the total actual resident days in that period, thereby determining a resident day costs for the period. The total net recapture shall then be determined by multiplying the actual welfare days times the resident-day cost for each fiscal period.

PROPOSED RULES

(iii) The total net recapture amount determined according to (ii) above will be reduced by one per cent for each month of ownership since the date of acquisition of the facility. The net recapture paid to the State of Minnesota is includable in the new owner's basis for depreciation subject to the provisions of D.3.a.(2).

(b) The net recapture amount so determined in (iii) above will be paid by the new owner to the State of Minnesota within a time period agreed to by the Commissioner and the new owner. The time period should effectuate an orderly payment schedule and must not exceed two years after the date of sale.

(7) Gains and losses on disposition of equipment. Gains and losses on the sale or abandonment of equipment are includable in computing allowable costs. A gain shall be an offset to depreciation expense to the extent that such gain resulted from depreciation reimbursed under these regulations. Gains or losses on trade-ins should be reflected in the asset basis of the acquired asset. Abandonment losses will be limited to five cents per resident day annually; however, any excess over this limitation can be carried forward to future years.

b. Limitations.

(1) The total basis of depreciable ICF/MR facility assets shall not exceed an average of \$14,820 per bed for licensed beds built or purchased after January 1, 1974. The Commissioner may waive this limitation if the facility is deemed to be necessary and no alternative comparable facility is available. This limitation will be adjusted annually beginning January 1, 1976 according to a construction index as determined by the Commissioner.

(2) In no instance can accumulated depreciation calculated in accordance with D.3. exceed the basis defined in D.3.a.

(3) Accumulated depreciation as of the beginning of the first fiscal year covered by this regulation shall be calculated retroactively using the useful lives defined in D.3.c. and D.3.d.

(4) Regardless of the applicability of the limitation stated in D.3.b. (1) above, depreciation on investments in facility modifications and new equipment will be allowed if they were required by local, state or federal requirements.

c. Depreciation rates for new facilities and equipment.

Depreciation shall be calculated using the basis determined under D.3.a., applying the following useful life schedule:

Building — 35 year.

Building improvements [depreciated over the remaining life of the principal asset or useful life, but not less than 15 years].

Land improvements — 20 years.

Equipment — five years.

Vehicle — four years.

d. Other useful lives.

(1) Depreciation rates for used facilities and equipment. The useful life shall be assigned by the provider, considering the individual circumstances; however, the useful life will not be shorter than one-half of the useful life provided by D.3.c.

(2) Leasehold improvements. The useful life of the improvement or the remaining term of the lease, including renewal periods, shall be used, whichever is shorter.

e. Depreciation method. The straight-line method of depreciation should be used except, at the option of the provider, when the principal payments on capital indebtedness [as defined in B.5.a. (7)] exceed the total depreciation allowance calculated in accordance with D.3. In such an instance, depreciation may be increased to equal principal payments on capital indebtedness amortized over actual amortization periods; however, the amortization period cannot be less than 20 years for building and five years for equipment. Accumulated depreciation cannot exceed the basis defined in D.3.a.

f. Facilities financed by public funds. Depreciation will not be allowed on the portion of facilities financed by federal, state, or local appropriations or grants unless the intent of such appropriation or grant was that it be repaid through operating revenue of the facility.

g. Non-Depreciable assets. ICF/MR facility assets that are not depreciable include but are not restricted to:

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PROPOSED RULES

(1) Land. Includes the land owned and used in provider operations. Included in the cost of land are the costs of permanent roadways and grading of a non-depreciable nature, the cost of curbs and sidewalks whose replacement is not the responsibility of the provider, and other land expenditures of a non-depreciable nature.

(2) Goodwill. Includes amounts that result from purchase of property or stock in excess of determinable value as determined in D.3.a.(2).

h. Capitalization vs. expense. Expenditures for equipment that has a useful life of more than one year shall be capitalized except that the provider may show as expenses small equipment purchases normally capitalized if such items do not exceed five cents per resident-day annually.

4. Leased facilities or equipment.

a. Rental charges. Rental charges incurred by a provider through reasonable bona fide leases between unrelated parties are includable in allowable costs unless:

(1) Rental charges result from a sale, lease-back arrangement, or lease with option to buy at a price less than anticipated value.

(2) Rental charges are paid to a related or controlled organization. If either D.4.a.(1) or D.4.a.(2) exists, the provisions of D.4.b. will be applied.

b. Allowable costs in lieu of disallowed rental charges. If rental charges are not allowed, the provider will be allowed depreciation computed in accordance with D.3. as if the disallowed transaction had not occurred. In addition, the provider will be allowed the reasonable cost of the facility assumed by the lessor such as interest on capital indebtedness up to 65 per cent of net allowable assets, taxes, insurance, other costs, and earnings allowance provided by D.5.b. and D.5.d., if applicable.

c. Limitation. Allowable rental charges are subject to the investment per bed limitations of D.5.b.(1) (a), determined by calculating the present value of lease payments exclusive of real and personal property taxes and other costs assumed by the lessor. Interest rates used in capitalizing lease payments shall be the mortgage rate of the lessor or, if the mortgage rate is not available, 2.15 percentage points above the interest rate of Federal Hospital Insurance Trust Fund obligations as of the effective date of the lease.

5. Cost of capital.

a. Interest.

(1) Interest expense is an allowable cost and will be classified as follows:

(a) Interest on capital indebtedness includes amortization of bond premium and discount and related financing costs. Capital indebtedness is defined as any loan that is applied to purchased fixed assets related to providing residential care as defined in D.4.b.(A). The form of indebtedness will include mortgages, bonds, notes, and debentures, when the principal is repaid over a period in excess of one year.

(b) Other interest for working capital and operating needs that directly relate to providing residential care is an allowable cost. The form of indebtedness will include, but not be limited to, notes, advances, and various types of receivable financing the principal of which will be generally repaid within one year.

(2) Interest income will be a deduction from interest allowable under provision D.5.a.(1) (a) or D.5.a.(1) (b). Interest income on restricted funds will not be deducted from interest expense. Restricted funds are defined as all unexpended donated funds carried by the facility that are restricted for other than operating costs. The operating or building funds cannot be included as part of restricted funds for this purpose.

(3) Interest rate. The interest rate incurred must not be in excess of what a borrower would have had to pay in an arms-length transaction in the money market when the loan was made. When a non-proprietary provider borrows from its own restricted fund, interest paid by the general fund to the restricted fund is allowable at a rate not to exceed the interest rate the fund is currently earning. Interest on loans between operating and building funds is not allowable.

(4) Construction interest. Interest cost incurred during and related to construction must be capitalized as a part of the cost of the facility. The period of construction is considered to extend to the date the facility is put into use for resident care.

(5) Allowable interest limitation for proprietary providers. Because of provision of D.5.b. for proprietary providers, the allowable interest expense defined in D.5.b.(1) (a) shall not exceed the provider's average interest rate times 65 per cent of net allowable assets as defined in D.5.b.(a) (a).

b. Earnings allowance for proprietary providers.

(1) Determination of allowance. An allowable cost for rate setting purposes is a reasonable return on capital provided by owners of proprietary facilities. The return will be applicable only to the portion of investment devoted to welfare recipients, and the return represents an earnings opportunity, not a guarantee. This return does not represent an attempt to regulate the actual return realized by pro-

PROPOSED RULES

proprietary providers. The earnings allowance will be determined individually for each provider, considering the following factors:

(a) Net allowable fixed assets employed will include actual cost of land, land improvements, buildings and equipment minus cumulative depreciation calculated in accordance with regulation D.3. and further limited to \$1,000 in excess of the limitations provided in D.3.b.(1).

(b) The amount of capital provided by owners will be assumed to be 35 per cent of the net allowable fixed assets employed in providing residential care.

(c) The after-tax rate of return allowed on capital provided by owners, calculated on the basis of D.5.b.(a) and D.5.b.(1) (b), will be ten per cent.

(d) To obtain an after-tax rate of return of ten per cent requires that the earnings allowance include an amount for average effective federal and Minnesota corporate income tax rates of 31.3 per cent to 54.24 per cent, depending upon the tax bracket that would result from applying the rate of return to net allowable fixed assets.

(e) An additional earnings allowance will be

allowed on the remaining 65 per cent of net allowable fixed assets not otherwise covered by capital indebtedness. The allowance will be six per cent of this amount.

c. Minimum cost of capital allowance for providers.

Notwithstanding the provision of D.5.a.(5) and D.5.b., the cost of capital allowance shall be no less than the combination of:

(1) Actual interest on capital indebtedness.

(2) An earnings amount determined by multiplying resident days for a fiscal year, or part thereof if a short period report is being filed, by 35 cents.

E. Effective date of DPW 52 revisions.

1. All revisions of this revised DPW 52 [except provision IV.C.2.a.] shall take effect beginning with reports covering fiscal years ending after November 30, [1975] **1976**.

2. Providers may request by letter, no later than March 31, [1976] **1977**, a revised rate as affected only by Section [II.D.2.] **B.4.b.** of the rule. The revised rate may be effective as of January 1, [1976] **1977**.

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OFFICIAL NOTICES

EQC Monitor Environmental Quality Council

Actions Taken at the December 21, 1976 EQC Meeting

1. Ordered an Environmental Assessment (EA) on Northern States Power's (NSP) Prairie Island nuclear waste disposal expansion designating the Pollution Control Agency responsible agency.

2. Ordered an EA on Minnkota-Ottertail 54-mile High Voltage Transmission Line (HVTL) (from near Winger to near Bemidji) designating the Department of Natural Resources responsible agency.

3. Received NSP application for limited work authorization for Sherco Generating Plant, units 3 and 4.

4. Resolved to: (1) submit Health Department study on health effects of HVTLs to independent medical consultant for review when completed; (2) arrange generic hearings on environmental effects of HVTLs; (3) analyze impacts on agricultural production and operations; and (4) recommend program to legislature and request appropriation.

5. Found Environmental Impact Statement (EIS) adequate on Forbes to International Falls border HVTL (NSP-TR-1).

6. Accepted additional route segments for consideration at hearing as suggested by citizens route evaluation committee and the Department of Natural Resources on Cooperative Power Association/United Power Association Delano to Willmarth HVTL. (CU-TR-2)

7. Endorsed proposed changes in Power Plant Siting legislation.

8. Adopted complaint form as directed in construction permit on MP&L-TR-1.

9. Ordered EA on County State Aid Highway #18 designating Washington County responsible agency.

10. In response to petition determined no additional environmental review is required on the proposed expansion of Metropolitan Community College and Minneapolis Area Vo-Tech.

11. Determined no further review of EIS on I-94 Minneapolis to Brooklyn Center extension is required.

12. Determined no substantial change had occurred on Opus II planned unit development in Minnetonka and no further environmental review is required since the Department of Natural Resources permit process will address environmental concerns.

13. Ordered EIS on Marina Towers apartment proposal designating City of Duluth responsible agency.

14. Found EA on Tomo recreation area proposal adequate and determined no EIS required.

15. Recognized need for environmental review on Intermix cement plant proposal in Duluth and resolved to review voluntary assessment when submitted by proposer.

Notice of Meetings and Hearing on Wooddale Shopping Center Draft EIS

The Draft Environmental Impact Statement (EIS) on the Dayton Development Company Proposed Wooddale Shopping Center was filed with the EQC on December 16, 1976. The proposed project would be located on a 174-acre site in Woodbury, about six miles east of St. Paul.

Public informational meetings regarding this Draft EIS will be held on:

Monday, January 10, 1977, 7:30 P.M. at Woodbury Elementary School

Monday, January 17, 1977, 7:30 P.M. at Royal Oaks Elementary School

Monday, January 24, 1977, 7:30 P.M. at Woodbury Municipal Building

The Public Hearing on the Draft EIS will be held on:

Monday, January 31, 1977, 7:30 P.M. at Woodbury Senior High School

The record will remain open for public comments from the date of the Hearing until February 14, 1977.

Questions regarding this Draft EIS should be directed to:

Dwight Picha
Community Development Director
Municipal Building
2100 Radio Drive
Woodbury, Minnesota 55042
612/739-7972

(End of EQC Monitor)

OFFICIAL NOTICES

Department of Commerce

Banking Division Bulletin No. 1627

Legal Reserve Requirements for Minnesota State-Chartered Banks or Trust Companies

Minn. Stat. § 48.22 (CASH RESERVES). subd. 1. (REQUIREMENTS). A state bank or trust company shall always keep a reserve equal to seven percent of its demandable liabilities and two percent of its time deposits; which shall be in cash, cash items in process of collection and balances due on demand from solvent banks in the United States or its territories. No bank or trust company shall act as reserve agent for another without the approval of the commissioner if its capital and surplus are less than \$100,000. When its reserve shall become impaired, it shall make no new loans or discounts except upon sight bills of exchange, nor declare any dividend until the same has been fully restored.

Subd. 3. (STATE BANKS, CHANGE IN REQUIREMENTS.) Whenever the commissioner of banks shall determine that the maintenance of sound banking practices or the prevention of injurious credit expansion or contraction makes action advisable, he may by directive change his requirements as to reserves against demand or time deposits, or both, in state banks or trust companies which are not members of the Federal Reserve System. The reserve requirements established in any directive shall not be less than the requirements contained in subd. 1, nor more than those required of member banks of the Federal Reserve System on the date that the directive is issued by the commissioner unless these reserve requirements are less than those contained in subd. 1.

Pursuant to the authority conferred upon me as cited as commissioner of banks, I have determined that in order to maintain sound banking practices and maintain competitive equality between Federal and State-chartered banks and trust companies and to foster the desirable credit expansion in concert with the fiscal and monetary policies of the Federal Reserve System, I declare the following cash reserve requirements are promulgated by directive effective December 16, 1976:

DEMAND DEPOSITS
(Millions of Dollars)

0-2	2-10	10-100	100-400
7%	9½%	11¾%	12¾%

Only one rate is applicable to your bank and the rate used will be determined by your total demand deposits as scheduled above.

SAVINGS DEPOSITS

3% Rate Applicable to All Regardless of Size

TIME DEPOSITS

Maturing in:	180 Days to	4 Years
30-179 Days	4 Years	or More
3%	2½%	2%

Robert A. Mampel
Commissioner of Banks

Department of Natural Resources

Notice of Intent to Solicit Outside Opinion Regarding the State Waterbank Program and Other Methods of Indemnifying Farmers for not Draining Public Waters

The Department of Natural Resources is drafting rules for the state waterbank program and other methods of indemnifying farmers for not draining certain types of public waters less than 50 acres in area.

In order to determine the nature of such rules, the department invites information and comment concerning the subject from all interested persons or groups. Information and comment may be made in writing or orally to:

Lonnie Thomas
Department of Natural Resources
3rd Floor, Centennial Building
St. Paul, MN 55155
Telephone: (612) 296-4803

Statements must be received by February 15, 1977. Written material will become part of the hearing record.

The proposed rules will describe how the commissioner of natural resources will decide whether the public water which is the object of an application for a permit to drain is of the kind for which he can pay the landowner not to drain. They will describe the different kinds of payments the commissioner may offer. They will describe the state waterbank program, particularly procedures, payment rates, and terms of waterbank agreements.

The rules are being drawn to implement and make specific certain parts of Laws of 1976, ch. 83, namely, all that part of § 8, subd. 3, beginning with and following "Except as provided below . . .," and § 9 (see particularly the second sentence of subd. 1 and the second paragraph of subd. 2).

Gerald D. Seinwill, Director
Division of Waters

**Board of Private Detective
and Protective Agent
Services**

Notice of Meetings

During Calendar Year 1977, the Board of Private Detective and Protective Agent Services will meet monthly, on the second Monday of the month, at 9 a.m. at 1246 University Avenue, St. Paul, Minnesota.

Paul J. Tschida
Chairman

**Minnesota State Retirement
System**

Notice of Special Meeting

The Board of Directors, Minnesota State Retirement System, will hold a special meeting on Friday, January 7, 1977, at 9:00 A.M. in the office of the System, 529 Jackson Street, St. Paul, Minnesota to consider proposals for changes to the retirement laws and any other matters which may properly come before the Board.

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Attn: Edward Burdick, Chief Clerk
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