

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Proposed Adoption
of Rules of the Minnesota Public
Utilities Commission Governing
Utility Delinquency Charges

STATEMENT OF NEED
AND REASONABLENESS

DOCKET NO. G,E-999/R-83-99

4 MCAR §3.0317 Definitions.

A. Applicability. This subsection is for clarity only.

B. Delinquent Account. This definition is necessary to restrict the portion of a customer's account against which a late payment charge may be levied. The first restriction is that a late payment charge may only be applied against the portion of a bill representing charges for utility services. This is necessary because utilities may include charges on customers' bills for things other than utility services, such as payments for appliances. It is reasonable to exclude non-utility products or services from being subject to late payment charges since the rates, terms, and conditions of those non-utility products or services are not subject to the Commission's regulatory authority.

The second restriction is that a customer who is paying his or her utility bill in installments, under a "budget billing" plan offered by the utility, under a statutory budget billing plan, or under a payment schedule set up through the Commission's Cold Weather Rule, and who is delinquent with his or her bill will have a late payment charge figured against either the total outstanding balance or the monthly payment due under the installment arrangement, whichever is the smaller. This is reasonable since the monthly installment will usually be smaller, and it would be unreasonable to apply a late payment charge against the total outstanding balance when the customer and the utility have agreed that only the installment payment is due each month.

C. Late Payment Charge. This definition is necessary to establish the basic definition of these rules. It is reasonable to clearly state that a late payment charge may only be imposed upon a delinquent account because that is the primary focus of these rules.

D. Utility. This definition is necessary to clearly indicate which utilities will be required to comply with the rules. First, it is necessary to include only those utilities over which the Commission has general regulatory

authority. The Commission cannot require utilities outside its jurisdiction to comply with its rules. Second, it is reasonable to include only gas and electric utilities, and to exclude telephone companies, because gas and electric utilities bill their customers for service after it is rendered, while telephone companies bill their customers for local service in advance of that service being rendered. It would be inconsistent with the basic intent of these rules to impose a late payment charge on a bill for service that had not yet been received by a customer.

4 MCAR §3.0318 Billing terms. This section is necessary to standardize the terms used to describe charges that have historically functioned as late payment charges. Since these rules will establish a uniform method for computing and billing late payment charges, it is reasonable to also establish a uniform method for alerting customers of the charge that may be imposed for failure to pay on time. In addition, it is reasonable to end the use of terms that the Commission believes may have confused or misled customers, such as "discounts", and replace them with a readily understandable term.

4 MCAR §3.0319 Determination of delinquency. This section is necessary to establish a uniform method of determining when a customer should have a late payment charge levied against his or her bill. It is reasonable to create two measures of delinquency, because residential and non-residential customers have differing sources of income and ability to respond to utility billings.

A. Residential customer. This subsection establishes a minimum period of 25 days from the current billing date during which the residential customer may pay the bill without a late payment charge. The utility may establish the next scheduled billing date further away from the current billing date than 25 days if the utility's billing system will accommodate it, but may not use a period shorter than 25 days.

The Commission has considered the conflicting interests at stake when deciding how long a grace period is appropriate. The Commission believes it is reasonable to use a 25-day period for residential customers for three reasons. First, a 25-day period will allow virtually all residential customers to receive income before the next scheduled billing date. The Commission understands that some customers may only receive income once a month; the 25-day period will serve to greatly minimize any gap between the date of income and the next scheduled billing date.

Second, a 25-day period will not unduly delay a utility's receipt of payment. Because a gas or electric utility delivers its services every day to its customers, each month a portion of each customer's bill is for service rendered up to 30 days before. The 25-day period will mean that a customer will have use of the service without paying for no more than 55 days.

Third, a 25-day period will ensure that there will be time for payments made even at the end of the grace period to be posted to the customer's account and appear on the next bill. The Commission believes that a period longer than 25 days would create the possibility that a customer could pay his or her bill at the end of the grace period, but that the utility would not have time to credit the payment on the next bill. In those cases, the customer could have paid in a timely fashion, but still have a late payment charge appear on the next bill. It

is likely that considerable customer confusion and dissatisfaction would result, since the utility would have to remove the late payment charge when it did post the payment to the customer's account. This would mean at best a recomputing of the bill in the next month, and at worst it would be possible for a customer paying on time at the end of the grace period to see a late payment charge on the next bill and to unnecessarily pay that late charge under the mistaken belief that the payment had not been timely. It is reasonable to avoid the potential for customer misunderstanding and error by establishing a grace period that will permit utilities' billing systems to function properly.

In addition, it is necessary to establish the maximum length of time between the current billing date and the date of mailing of the bill. It is reasonable to allow some period of time for preparing and mailing the bill, but it would be unreasonable to allow an overly long period, since that would unreasonably reduce the customer's effective grace period. A three-working-day period is reasonable because it will allow sufficient time for bills to be processed out of the utility's hands, but will not significantly reduce the customer's effective grace period.

B. Nonresidential customer. This subsection establishes a minimum 15-day period during which a non-residential customer may pay a utility bill without a late payment charge. A utility may establish a grace period longer than 15 days for non-residential customers, but may not give them less than 15 days to pay.

It is reasonable to use a 15-day period for non-residential customers because these customers do not have the potential for income timing problems that residential customers do. The Commission believes that a balancing of the interests of the utility in receiving payment for service rendered up to a month before billing, particularly considering the larger amounts generally charged non-residential customers, weighs heavily in favor of a shorter grace period in the absence of the countering income-timing consideration found in the case of residential customers.

A three-working-day limit on the period from current billing date to date of mailing is necessary and reasonable for the reasons discussed under residential customers.

4 MCAR §3.0320 Requirements for imposing late payment charge. This section is necessary to establish the actions a utility must have taken before it can impose a late payment charge on any customers.

A. Tariffs. It is reasonable to require each utility to file and have approved tariffs containing its proposed late payment charge amounts, terms, and conditions so that the Commission can review the tariffs to see that they comply with these rules. If the tariffs do not comply with these rules, the Commission can alter them so they do comply. Once the tariffs are approved, they will be on file with the utility and the Commission for public inspection, so that any interested person can review them easily.

Requiring the filing of proposed tariffs for late payment charges is consistent with the process required by the Commission under Minn. Reg. PSC 175A for all other proposed rates or rules and regulations. Minn. Reg. PSC 175A is based upon M.S. §216B.05, which requires every regulated gas and electric utility

to file with the Commission schedules showing all rates, tolls, and charges which the utility has established, and to file all rules and regulations that, in the judgment of the Commission, affect the utility's service. Clearly, the rates, terms, and conditions of a late payment charge affect the utility's service and fall under M.S. §216B.05.

B. Bill content. This subsection is necessary to comply with the requirements of M.S. §222.75, which states that any public utility that adopts a policy of imposing a charge or fee upon delinquent residential or farm accounts shall provide that each billing shall clearly state the terms and conditions of any penalty in the form of the monthly percentage rate. In addition, it is reasonable to require the same information be available to all other customers who may have a late payment charge imposed upon them.

It is necessary to clearly inform all customers of the date upon which the bill is due so that they can pay the bill on time. It is necessary to inform all customers of the amount of the late payment charge so that they can distinguish the late payment charge from the charges for utility services.

It is reasonable to require this information on each bill so that all customers will have the information before them each time they review a bill. The Commission believes that customers are not likely to remember the exact billing terms and conditions of each utility from which they receive service, and that restating this information is the only way to insure that customers are actually informed of their responsibilities and obligations.

C. Uniformity. This subsection is necessary to ensure that all customers are treated in a non-discriminatory fashion by utilities. M.S. §216B.03 requires that rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory. Further, M.S. §216B.07 requires that no public utility shall make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

It is reasonable to require uniformity in the application of any late payment charge because allowing a utility to impose a late payment charge against only certain customer classes or against only certain customers would be to allow unreasonable discrimination against those classes or customers who would be paying late payment charges when others would be allowed to be delinquent without paying the costs of delinquency. It is reasonable to require late payment charges to be applied consistently to prevent a utility from granting an unreasonable preference on a customer-by-customer basis.

4 MCAR §3.0321 Amount of late payment charge. This section is necessary to establish the method of charging for late payment that utilities must follow. As reported in "Late payment Study for Regulated Utilities in Minnesota" by the Minnesota Department of Public Service, January 1982, the practices of utilities vary tremendously across the state. It is reasonable to establish a statewide ceiling on late payment charges, without requiring any utility to impose a late payment charge, so that any utility that does choose to impose a late payment charge does so in a manner consistent with sound public policy. The Commission believes that public policy requires that customers face similar conditions of service, regardless of their geographic location, whenever possible. While the Commission recognizes that some costs of service vary by location, it believes

that the average cost of late paying customers is sufficiently similar from utility to utility that a maximum charge can be established that will not unduly restrict utilities from recovering the costs of late paying customers while preventing wide disparities between utilities from disadvantaging some customers.

A. Finance fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's cost of money. A utility that does not receive timely payment from its customers must obtain its day-to-day working capital from other sources. This acquisition of short-term capital has a cost associated with it. It is reasonable to allow a utility to recover at least a major portion of this cost from the customers who impose it, rather than from all ratepayers. It is reasonable to set the maximum rate for the cost of money at one and one-half percent per month to be consistent with the interest limits set in M.S. §334.16, subd. 1(b), which governs the rate for open-end credit sales by sellers with less than \$25 million of gross annual sales in Minnesota. Even though utilities are not covered by M.S. §334.16, subd. 1(b), the Commission believes consumers are familiar with the interest rate ceiling set therein, and believes they have general acceptance of that limit. Further, it is reasonable to adopt the interest limit that the Legislature has set for the most common consumer transactions as the limit on utility late payment charges in order to avoid the excessively high interest rates found in certain existing utility late payment charges, which are as high as 10% per month.

B. Collection fee. This subsection is necessary to establish the portion of the late payment charge that represents recovery of the utility's costs of collecting overdue bills. There are costs associated with the preparation and mailing of notices of past-due accounts, as well as other administrative costs of those accounts. It is reasonable to recover those costs, at least in part, from the customers who impose them rather than from all ratepayers. It is reasonable to set the maximum collection fee at \$1.00 as a median estimate of those costs, based upon the fact that the range of collection fees of those utilities which charge them is from \$.85 to \$3.60.

4 MCAR §3.0322 Crediting of payments. This section is necessary to ensure that any payment made by a customer is first used to reduce or eliminate any past-due bill and thereby limit or remove any late payment liability. It is reasonable to require this method of crediting since these rules are designed to allow charges that are compensatory, not punitive.

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