

Clearinghouse Rule 00-080

RULES CERTIFICATE

State of Wisconsin)
) ss.
Department of Administration)

I, George Lightbourn, Secretary of the Wisconsin Department of Administration, and custodian of the official records, certify that the attached administrative rule relating to the Non-municipal Electric Utility Public Benefits Fee was duly approved and adopted by the Department of Administration on October 11, 2000.

I further certify that this copy has been compared by me with the original on file with this Department and that it is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand in the City of Madison, Wisconsin this 11 day of Oct, 2000.

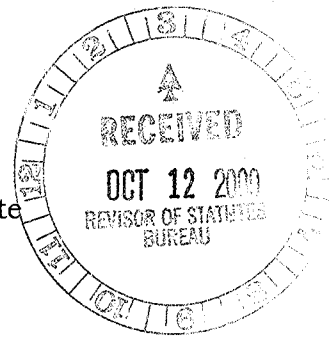


George Lightbourn
George Lightbourn, Secretary
Department of Administration

00-080
12-1-00

ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create chapter Adm 43 of the Wisconsin Administrative Code, relating to Non-municipal Electric Utility Public Benefits Fees.



Analysis Prepared by the Department of Administration:

Statutory Authority: ss. 16.004 (1), 16.957(2)(c) 4. and 5., and (4)(b), Stats.

Statutes Interpreted: ss. 16.957(2)(c) 4. and 5., and (4), Stats.

1999 Wisconsin Act 9 included major provisions relating to aspects of electric utility regulation, commonly referred to as "Reliability 2000." That legislation created a new statutory framework within which public benefit programs relating to low-income energy assistance and energy conservation and renewable energy are continued and expanded. Under ss. 16.957(2)(c) and (4)(b), Stats., the Department of Administration is directed to promulgate rules setting fees to be collected by utilities from their customers, and establishing requirements and procedures related to those low-income and energy conservation programs. This rule provides mechanisms for setting, collecting, and reporting the fees, and related matters.

Section Adm 43.03 provides three definitions in particular that notably effect the workings of the rule and help avoid confusion between various funding amounts and levels addressed by the rule. The total revenue needed to fund the public benefit initiative is determined using a formula that includes funds to be collected by municipal and non-municipal utilities and retail electric cooperatives. However, the statute directs that the Department's rule address only those revenues collected by non-municipal electric utilities. In effect, revenues collected by municipal utilities and retail cooperatives are backed-out of the public benefits need formula to arrive at the specific amount to be collected by non-municipal electric utilities from their customers.

The "public benefits program funding level" is defined as the total amount of funds to be collected by all electric providers—municipal utilities, retail electric cooperatives and non-municipal electric utilities. The "amount invoiced" means each non-municipal electric utility's portion of the public benefits program funding level which each must collect from their own customers. Finally, the "public benefits fee" is that portion of each non-municipal electric utility's amount invoiced that is apportioned to and collected from each of its customers. This fee may include an amount representing reasonable and prudent expenses approved by the Department, which a non-municipal electric utility may seek to recover under the statute. Two other pertinent definitions include "residential customer" and "non-residential customer," which are defined in terms of metered electric services under a particular type of tariff. (Essentially, one meter = one customer.) This follows standard electric industry practice in this state including, for rate purposes, that of the Public Service Commission.

Section Adm 43.04 provides methods by which the low-income "component" of the public benefits program funding level is determined. This section also

details the specific sources of information that the Department will use in order to estimate total low-income energy bills in Wisconsin, and the total number and annual average income of low-income households under section 16.957(2)(c) 5., Stats.

Section Adm 43.05 specifically establishes the public benefits program funding level. This is done annually on or before each March 1st for the following fiscal year. Using the most recent data available on or before that date from either the Energy Information Administration of the U.S. Department of Energy or similarly published data, the Department determines the number of residential and non-residential customers served by electric utilities. Using the formulas provided in sections 16.957(4)(c) and (5), Stats., the Department determines the portion of the overall funding level that non-municipal electric utilities are responsible to collect annually. Of this amount, the Department allocates 70% to be collected from residential customers and 30% to be collected from non-residential customers as required by section 16.957(4)(b) 2., Stats.

Section Adm 43.06 allocates the amount of the public benefits program funding level for which all non-municipal electric utilities are responsible to collect among each individual non-municipal electric utility. This apportionment to each utility is the "amount invoiced" and is based upon the number of residential and non-residential customers each non-municipal electric utility has in proportion to the collective total. This is done by simply comparing the ratio of an individual non-municipal electric utility's number of residential and non-residential customers, respectively, to the total number of residential and non-residential customers of all non-municipal electric utilities, respectively.

Paragraphs (2)(d) and (e) provide a mechanism for the Department to adjust the residential or non-residential components in order to minimize any inequities which may result from the 3% maximum bill increase restriction of section 16.957(4)(c) 3., Stats., in order to produce a uniform fee. This adjustment may be necessary because of an internal statutory conflict. Section 16.957(4)(b)(intro.), Stats., allows fees to vary between classes of customers, but requires them to be uniform within each class. All residential customers, for example, must pay the same amount. However, the 3% bill increase restriction ("cap") has the potential to cause certain residential customers to pay unequal fees. If the fee set by the Department is too high, many customers will reach an amount equal to 3% of their bills before reaching the set fee, resulting in a corresponding amount of under-collection. (For example, a utility has 100 customers, each with a monthly bill of \$30.00. Each customer will cap out at \$0.90 (3%). If the fee is set at \$1.00, the utility will under-collect \$.10 per customer, or \$10.00 that month.) If the fee is not set appropriately, customers with higher bills--who can thus pay more in absolute dollars before they cap out--would normally be burdened with making up any shortfall due to the cap by paying a higher amount. But since this is not allowed under the statute, the rule provides for a cooperative computation procedure between the Department and the utilities to set a low and uniform fee.

Taken together, sections Adm 43.05 and 43.06 set up this cooperative computation through an annual iterative process whereby a base fee is chosen, with which all the utilities calculate whether they will reach the amount they are responsible to collect, how many customers would cap out under that

amount, and how large a collection deficit or surplus, if any, would result. After many such fee iterations by the utilities, the Department has determined that the fee for the first year of the program will be approximately \$1.50.

Incidentally, according to data provided by the state's non-municipal electric utilities consulted in developing this rule, the 3% cap will apply primarily, if not exclusively, to residential customers. Non-residential customers are not likely to ever reach the 3% cap because of the higher amount of their bills. In any case, there is an absolute statutory \$750 maximum on any bill increase.

Section Adm 43.07 provides for the implementation of the collection of public benefits fees from non-municipal electric utility customers. The fee collection process will begin in fiscal year 2001. Using the calculations and related information provided to them by the Department under section Adm 43.06, on or before March 1st each individual non-municipal electric utility must submit a collection plan and related documentation for collecting the amounts invoiced. The collection plan may also provide for recovering reasonable and prudent expenses from the customer through the fee.

Section Adm 43.07(3) provides that the public benefits fee must be identified on each customer's electric bill as a "non-taxable fixed charge." Although this may appear inconsistent with the intent of section 16.957(4)(a), Stats., this is intended to comply with the billing requirements established by the Public Service Commission in s. PSC 113.0406, under which a customer is to be able to compute the amount of taxes owed on a bill. It also identifies to customers that sales taxes do not apply to this charge. (Some non-municipal electric utilities have a fixed charge line item, which is subject to sales taxes.) Each non-municipal electric utility must also demonstrate that its public benefits fee collection plan equitably allocates the amount for which it is responsible to collect from its residential customers among its residential customer classes, and must make a similar demonstration regarding its non-residential customer classes.

Section Adm 43.07(5) acknowledges that some customers have multiple meters within one utility's service area on which they must pay multiple public benefits fees. These customers may request relief from the utility if its multiple fees, when aggregated, exceeds the \$750 statutory cap of section 16.957(4)(c) 3., Stats. This request waives only that amount exceeding \$750. Any amount thus rebated by a utility would be treated as an under collection by the utility for purposes of reconciliation in section Adm 43.08. (In practical terms, only non-residential customers will ever be affected by the \$750 bill increase restriction.)

Under ss. Adm 43.07(6) through (8), the Department will approve, modify or deny a proposed collection plan and set procedures for a utility to resubmit any plan that is originally modified or denied. A modified or denied collection plan may be appealed through a process provided in section Adm 43.12. An approved or modified plan must be implemented by the utility at the start of the first monthly or periodic billing cycle of the following fiscal year. If a plan is under appeal on June 1st, the Department will issue a collection plan which the utility must implement on that date regardless of the appeal's status.

Section Adm 43.08 provides for payment and reconciliation of the public benefit fees. Under this section, utilities will make monthly payments to the Department by the 15th of each month, with late payments being assessed interest at the rate required by the Public Service Commission in section PSC 113.0402(9). The reconciliation process provides that if the total amount of public benefits fees collected by a utility is greater than the amount it was responsible for collecting (plus approved reasonable and prudent expenses), that amount of over-collection will be subtracted from the total amount required to be collected by that utility in the following fiscal year. If the amount collected is less than required, that amount may be added to the amount to be collected in the following year. A non-municipal electric utility may, once in a fiscal year, request an adjustment to its collection plan in an attempt to avoid over- or under-collection. Subsection Adm 43.08(3)(c) allows a utility to request a waiver from the Department of the obligation of any amount under-collected due to either the 3% or \$750 bill increase restriction. This waiver may be used to avoid placing the fee burden on corporate shareholders. Section Adm 43.08 also provides for including uncollectible accounts in recoverable reasonable and prudent expenses under s. Adm 43.09.

Section Adm 43.09 addresses the recovery of allowed reasonable and prudent expenses. A utility may request recovery for the expenses it incurred in the development and implementation of the public benefits fee collection plan. The request must be submitted to the Department by February 15th with appropriate documentation in order to be included in the fee billed to its customers. A utility will recover approved costs from the fees it collected from its customers, before forwarding to the Department the amount it was invoiced.

Section Adm 43.10 provides for voluntary contributions to be made by a residential or non-residential customer to the Public Benefits Trust Fund in order to fund their choice of programs established under the public benefits legislation. Section 16.957(2)(c) 4., Stats., requires voluntary contributions to be paid with a customer's bill payments. This statute is somewhat in conflict with itself because it clearly provides that the rule "may" require the utility to provide space on an electric bill for a contribution. The Department has chosen to allow a utility to do this annually through an insert and return envelope included in the annual public benefits report that the Department must provide to each customer. The utilities consulted observed that the expense of creating a monthly collection mechanism could, in fact, exceed the amount normally collected in a voluntary program. In addition, many smaller utilities would have to change their present one page, postcard-billing format to a larger, multiple page format, increasing expenses, thereby increasing their customers' bills. The rule promotes fiscal responsibility by only requiring it on an annual basis.

Section Adm 43.11 concerns the initial announcement of the public benefits fee program to be included with the first billing, the required financial reports from the non-municipal electric utilities sixty days after the end of each fiscal year, and the Department's annual statement which identifies the total amount of fees collected and describing the programs for which those fees were utilized.

Finally, s. Adm 43.12 sets forth an appeals process for non-municipal electric utility collection plans that were either denied or modified by the Department.

The process is internal through the Department, beginning with the Administrator of the Division of Energy and Public Benefits, then on to the Department Secretary or his or her designee.

Final Regulatory Flexibility Analysis:

1. Types of small businesses that will be affected by the rule:

Small businesses that receive metered electric service from one of the twelve listed electric providers will be obligated to pay a public benefits fee. The public benefits fee will be included in each electric bill, and shall not exceed the lesser of three percent of the charges for electric service or \$750 per company per month.

Consolidated Water Power Company	Dahlberg Light & Power Company
Madison Gas & Electric Company	North Central Power Company, Inc.
Northern States Power Company	Northwestern Wisconsin Electric Co.
Pioneer Power & Light Company	Superior Water Light & Power Co.
Wisconsin Electric Power Company	Wisconsin Power & Light Company
Wisconsin Public Service Corporation	Westfield Milling & Electric Light Co.

The U.S. Small Business Administration (SBA) estimated in 1998 that about 98 percent of the 120,000 businesses with employees in Wisconsin were small businesses (defined for the purpose of this rule as fewer than 500 employees) and about 220,000 persons were self-employed. Accounting for some overlap, the SBA estimated there were 337,600 small businesses in Wisconsin in 1998. About 85 percent of Wisconsin small businesses were served by the twelve electric providers in 1998 according to the Energy Information Administration. Therefore, nearly 287,000 small businesses will be affected by this rule.

2. Reasons for failing to include in the rule any of the methods specified in s. 227.114(2), Stats.:

The rule will have no specific affect on small businesses. The public benefits fee will appear as a fixed charge on the electric bill but the fee itself is imposed on all electric utility customers by s. 16.957(4), Stats. The rule does not establish any compliance or reporting requirements, or performance standards for small businesses.

3. Summary of issues raised by small businesses during the hearing of the rule, any changes in proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses:

Issue: The public benefits rule will not be uniform for some companies if separately metered billboards are assessed the fee.

Response: Equating one meter with one customer is the standard electric utility practice in Wisconsin, and is even utilized by the Public Service Commission. Fees are subject to a 3% or \$750 maximum bill increase restriction by statute. Industry figures indicate that the average monthly billboard electric bill is between \$20 and \$46, so that the cap will translate to a

fee of between \$0.60 and \$1.38 per month. The rule treats companies with multiple billboards the same as companies owning multiple sites such as restaurants or gas station chains. However, the rule does provide for waiving or rebating of fees paid in excess of \$750 when aggregating multiple meters owned by a small business in a utility's service area. [Section Adm 43.08(3)(c), Stats.]

4. Reporting, bookkeeping, and other procedures required for compliance with the rule:

None.

5. Nature and cost of other measures and investments that will be required for compliance with the rule:

None.

6. Additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114(2), Stats.:

None.

7. Impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114(2), Stats.:

None.

TEXT OF RULE:

SECTION 1. Adm 43 is created to read:

Chapter Adm 43

Non-municipal Electric Utility Public Benefits Fee

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

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

Adm 43.03 Definitions. In this chapter:

- (1) "Amount invoiced" means that portion of the public benefits program funding level that is approved and allocated annually by the department to each non-municipal electric utility to be collected from its customers.
- (2) "Commission" means the public service commission.
- (3) "Customer" means the party billed for electric services.
- (4) "Customer class" means any grouping of electric customers in the state that is billed for electric service under the same tariff that has been approved by the Commission.
- (5) "Department" means the department of administration.
- (6) "Electric provider" has the meaning specified in s. 16.957(1)(f), Stats.
- (7) "Electric utility" has the meaning specified in s. 16.957(1)(g), Stats.
- (8) "Fiscal year" means the period beginning on July 1 and ending on June 30.
- (9) "Fixed charge" means a fixed amount within an electric tariff that is charged periodically to a customer without regard to energy demand or consumption.
- (10) "Low-income household" has the meaning set forth in s. 16.957(1)(m), Stats.
- (11) "Low-income need" has the meaning set forth in s. 16.957(1)(n), Stats.
- (12) "Municipal utility" has the meaning specified in s. 16.957(1)(q), Stats.

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

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

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

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

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

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

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

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

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

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

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

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

(2) When establishing the public benefits program funding level, the department shall determine the number of residential and non-residential customers served by each electric provider based on the most recent data

available on or before March 1 from the energy information administration of the U.S. department of energy or any similar published data that the department determines to be reliable.

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

Adm 43.06 Allocating the amount invoiced. (1) The department shall annually determine the number of residential and non-residential customers for each non-municipal electric utility based upon the most recent data available on or before March 1 from the annual report of major utilities, licensees and others filed with the federal energy regulatory commission, or similar sources as determined by the department.

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

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

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

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

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

(3) The department shall provide all calculations and related information in writing to each non-municipal electric utility in the form of a single annual invoice on or before March 1. This documentation shall include an itemization

of the residential and non-residential components based on the proportions prescribed in s. 16.957(4)[b]2., Stats.

Adm 43.07 Collecting the public benefits fee. (1) IMPLEMENTATION.

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

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

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

(4) EQUITABLE ALLOCATION. Each non-municipal electric utility shall submit documentation with its public benefits fee collection plan that demonstrates that the amounts of the public benefits fee it intends to bill its residential and non-residential customers equitably allocates the amount constituting the residential component among its residential customer classes, and the amount constituting the non-residential component among its non-residential customer classes. The amount of the public benefits fee may vary between customer classes, but shall be uniform within a customer class, except for variations due to the maximum bill increase restrictions in s. 16.957(4)(c)3., Stats.

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

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

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

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

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

Adm 43.08 Payment and reconciliation of the public benefits fee. (1)

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

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

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

(b) Once in any fiscal year, a non-municipal electric utility may submit a written request to the department to adjust its public benefits fee collection plan. The request shall contain the current amount that has been over-collected or under-collected and the amount that is forecasted to be over-collected or under-collected for the remainder of the fiscal year, the reasons for the differences and the non-municipal electric utility's proposed adjustments to its approved public

benefits fee collection plan. The department shall indicate its approval or disapproval of the proposed adjustments in writing within 30 days of receipt of the request. The non-municipal electric utility may implement the collection plan adjustment immediately upon department approval. If the department does not approve a collection plan adjustment, the affected non-municipal electric utility may protest under procedures set forth in s. Adm 43.12.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

benefits fees assessed to that customer when it distributes the department's annual statement.


Adm 43.12 Appeals. (1) RIGHT TO PROTEST. A non-municipal electric utility that disputes the department's denial or modification of its proposed public benefits fee collection plan, the denial of an expense request, or the denial of a reconciliation statement may protest to the department. The non-municipal electric utility shall serve the protest in writing on the administrator of the department's division of energy and public benefits within 15 days of the receipt of the department's denial or modification of the proposed public benefits fee collection plan under s. Adm 43.07, the reconciliation statement under s. Adm 43.08, or the expense claim under s. Adm 43.09.

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

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

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated: 10-11-00


George Lightbourn, Secretary
Department of Administration

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule # Dept of Admin Chap 43

Subject
Non-municipal Electric Utility Public Benefits Fee

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The administrative rule proposes to establish the procedures for public benefits fees, which will be collected from non-municipal electric utility companies. A total of \$44 million annually is expected to be collected which will be distributed among non-municipal electric utilities, municipal utilities and retail electric cooperatives according to computations provided in 16.975 stats. The department will then review plans by the utilities to collect such fees from residential and non-residential customers. The department is reviewing staffing requirements for the program and what cost may be associated with those requirements.

Long-Range Fiscal Implications:

Ongoing costs for the duration of the program.

Prepared By: / Phone # / Agency Name
Richard Wagner/ 608-266-0653 /DOA

Authorized Signature / Telephone No.
Chuck McDowell/ 608-267-3836

Date
4/11/00

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



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October 12, 2000

✓ Mr. Gary Poulson
Revisor of Statutes
131 W. Wilson St., Suite 800
Madison, WI 53703

Douglas La Follette
Secretary of State
30 W. Mifflin St., 10th Fl.
Madison, WI 53703

TRANSMITTAL OF RULE ADOPTION - Adm 43

RE: Non-municipal Electric Utility Public Benefits Fee

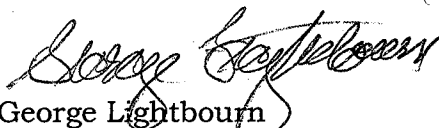
Dear Messrs. Poulson and La Follette:

Pursuant to s. 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the Officers of the Secretary of State and the Revisor of Statutes.

Enclosed, please find a rule certificate form, order of adoption and rule in final draft form, fiscal estimate and the summary of the final regulatory flexibility analysis pursuant to s. 227.114, Stats.

Please note in section Adm 43.08(2), we have corrected a reference to the Public Service Commission administrative code which was necessitated by the recent revision of that Code.

Respectfully submitted,


George Lightbourn
Secretary

Enclosure

