

STORAGE NAME: h2231z.uco
DATE: May 17, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
UTILITIES AND COMMUNICATIONS
FINAL ANALYSIS**

BILL #: HB 2231
RELATING TO: Medically Essential Electric Utility Service
SPONSOR(S): Representative Sublette
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES AND COMMUNICATIONS YEAS 10 NAYS 0
 - (2) HEALTH CARE LICENSING & REGULATION (W/D)
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (W/D)
 - (4)
 - (5)
-

I. SUMMARY:

In 1998, the issue of Medically Essential electric service arose during Public Service Commission (PSC) discussions on Docket No. 980682-EI. Investor Owned Utilities', (IOU), procedures for handling Medically Essential electric service accounts at the time varied across utilities.

Currently, the PSC has adopted tariffs for the IOUs establishing provisions for medically essential electric service.

The bill expands the definition of "medically essential" to eliminate the tariff requirement that such customers be dependent upon "continuously operating electric-powered medical equipment."

The bill establishes protection criteria for medically essential utility customers, including requiring the utilities to designate someone authorized to continue or restore medically essential service, and providing an explanation of the annual certification process.

The bill provides for a certification by a physician for medically essential service and annual renewal. It provides for notification of disconnection of service, payment for such service, and payment for backup equipment and supply.

The bill requires utilities to monitor the certificate renewals, provide information on funding sources, provides procedures for implementing voluntary contribution programs.

On April 17, 2000, the Committee on Utilities and Communications unanimously voted to amend the bill. The amendment makes the following changes: deletes provisions; provides certification and recertification information; provides for monitoring of certain customers' health; provides for information on financial assistance. Finally, by the amendment, the act does not form the basis for any cause of action for monetary damages, nor does failure to comply with the act constitute negligence on an electric utility.

The act takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1998, the issue of Medically Essential electric service arose during PSC discussions on Docket No. 980682-EI, regarding a complaint that an IOU had failed to give the required 30-day notice that service would be disconnected. Investor Owned Utilities' procedures for handling Medically Essential electric service accounts at the time varied across utilities.

On November 2, 1998, PSC staff gave commissioners an overview of the issue. The IOUs explained their policies and procedures regarding Medically Essential electric service as well as their various other programs. The Compassion National Children's Foundation (Foundation) raised concerns regarding the IOU's requirement of an additional deposit from customers taking service under the Medically Essential electric service tariff. The PSC directed its staff and the IOUs to explore solutions within the context of a proposed unified tariff. A tariff, pursuant to Rule 25-4.035, Florida Administrative Code, is a document that sets forth all the rates and charges for customer services, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all the general rules and regulations governing the relation of customer and utility. Tariff filings are required to be in compliance with the requirements of Chapter 25-9 of the PSC rules entitled "Construction and Filing of Tariffs by Public Utilities."

At the November 1998, PSC Internal Affairs meeting a proposed unified tariff was agreed upon. However, the issue of an additional deposit for medically essential customers was further discussed.

In a March 22, 1999, letter from the Foundation, concerns were expressed that the proposed tariff did not go far enough. It was suggested that the definition of Medically Essential electric service include customers who do not require continuously operating electric-powered medical equipment, that the additional deposits be eliminated, and that policies be consistent with other states including: New Hampshire, Massachusetts, Oregon, and New York. New Hampshire and Massachusetts allow customers to receive an indefinite extension of service. Oregon allows an extension of up to 12 months for chronic cases, and New York's Consolidated Edison keeps records of customers who use electrically operated support systems, so they can "help in case of an emergency."

The PSC believed that the proposed tariff makes significant progress in all of these areas. Also, that the tariffs will bring Florida's IOUs, and the PSC's handling of Medically Essential

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electrical service, into line with the vast majority of states that the PSC staff surveyed. Although the definition of Medically Essential was not expanded to include customers with asthma for example, the definition of Medically Essential among the IOUs is the same. Also, Medically Essential customers will be granted special consideration when they are faced with additional deposits.

Each IOU submitted an identical tariff for review. On April 30, 1999, the PSC approved the tariffs clarifying the terms and conditions under which IOUs supply service to customers who qualify for protection under the utilities' Medically Essential Service.

Order No. PSC-99-0930-TRI-EI was issued May 10, 1999 by the PSC which approved the tariffs, filed in Docket Nos. 990334-EI, 990293-EI, and 99317-EI, effective June 1, 1999. A subsequent Consummating Order was issued making the decision final.

The basic purpose of a "Medically Essential" designation on an account is to allow a customer whose life depends on an electrically operated device additional time to pay past due bills prior to disconnection. The additional time allows the customer to either secure funds to pay the bill from outside sources or to make arrangements for alternative care in the event that no funds are available.

Utilities have special accounts in which their customers contribute to assist people who are temporarily experiencing financial difficulties. The utilities' "Share" programs are administered by social service agencies such as The Salvation Army, The American Red Cross, and various other social service providers. When a customer is having financial difficulty, the utilities' programs are to help the customer reach the social service organization that can offer the kind of assistance needed. Also available to customers through the PSC and the utilities' Internet links is the publication entitled [Where to Find Help With Making Utility Bill Payments in Florida](#).

The current utility tariffs provide the terms and conditions related to "Discontinuance and Withholding of Service." For purposes of this public contract, a Medically Essential Service Customer is a residential customer whose electric service is medically essential, as affirmed through the certificate of a doctor of medicine licensed to practice in the State of Florida. Service is "medically essential" if the customer has continuously operating electric-powered medical equipment necessary to sustain the life of, or avoid serious medical complications requiring immediate hospitalization of, the customer or another permanent resident at the service address. The physician's certificate shall explain briefly and clearly, in non-medical terms, why continuance of electric service is medically essential and it shall be consistent with the requirements of the company's tariff. A customer who is certified as a Medically Essential Service Customer must renew such certification periodically. The company may require certification no more frequently than once every twelve months.

The tariff also provides these customers with a limited extension of time, not to exceed thirty days, beyond the date service would normally be subject to disconnection for non-payment of bill, following the requisite notice pursuant to Rule 25-6.105(5), Florida Administrative Code. Utilities are to provide these customers with written notice specifying the date of disconnection based on the limited extension, and the customer is responsible for making mutually satisfactory arrangements to ensure payment, within this additional extension of time for service, or for making other arrangements for meeting their medically essential needs.

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Additionally, the tariff requires that, no later than 12 noon prior to the scheduled disconnection of services, the utility shall attempt a telephone contact with the customer about the scheduled disconnect date. In cases of unsuccessful telephone attempts, a field representative will be sent to the residence to attempt contact. If contact is not made, the representative may leave written notification at the residence of the scheduled disconnection date. Thereafter, the utility may disconnect service on the specified date.

The tariff further states that a utility has the right to discontinue service to a customer and such right may be exercised without any liability for loss, damage, or injury resulting directly or indirectly from lack of electric service. The utility will be under no obligation or duty to ascertain whether such discontinuance would likely result in any such loss, damage or injury to the customer or industry.

Pursuant to Rule 25-6.09(3), Florida Administrative Code, the company may grant the customer special considerations.

For reconnection cases, service charges and deposits may be applicable.

The rule governing Life Sustaining Medical Equipment (LSME)/Medically Essential service is Rule 25-6.105(11), Florida Administrative Code. The rule provides that:

Each utility shall submit, as a tariff item, a procedure for discontinuance of service when that service is medically essential.

Municipal Electric and Rural Electric Cooperatives are not subject to the same level of PSC jurisdiction as the IOUs in relation to prices, terms, and conditions of service.

According to the PSC, there is no clear statutory mandate directing the creation of a special, protected class of LSME/Medically Essential customers separate from other residential rate customers, and the creation of such a class of customers would appear to violate section 366.03, F.S., which provides in part:

. . . All rates. . . shall be fair and reasonable. No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

The PSC believes that under current law it cannot create a special "leave service active" class of LSME/Medically Essential ratepayers absent legislative delegation of specific power. However, it does believe that it currently has the legislative authority to require the uniformity in LSME/Medically Essential tariffs among the IOUs.

C. EFFECT OF PROPOSED CHANGES:

The bill provides definitions for "medically essential" and "utility." The definition of a medically essential electric service customer is expanded to eliminate the tariff requirement that such customer be dependent upon "continuously operating electric-powered medical equipment."

The bill establishes protection safeguards for medically essential utility customers. Counter to the tariff, utilities are directed by the bill to continue or restore the electric service of any

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physician designated medically essential customer, without the imposition of any deposit or other charge. This provision limits the instances of termination of service. Utilities are to have designated employees to implement this safeguard. Doubts of medical essentialness of service shall favor continuance or restoration of electricity.

The bill further provides other utility responsibilities to medically essential customers. The utilities are responsible for annually informing each of their customers of the medically essential certification process. Forms are to be submitted by a State of Florida licensed physician using medical and non-medical terms as to the customer's medical condition. Annual recertification forms are required to also be completed by a licensed physician in order to maintain service status.

Utilities are to adopt policies and procedures to ensure that electric service is provided to customers who have provided the utility with a doctor's certificate. Continued provision of such service shall be consistent with the requirements of residential rates.

Consistent with the existing tariff, utilities are further responsible, at least 24 hours prior to disconnection of service, to notify customers, by telephone, or in cases of unsuccessful contact, by resident visit, of the scheduled disconnection for non-payment of bill. If contact cannot be made by either method, the utility may leave written notification of the scheduled disconnection of service. Utilities are to also provide information on sources of state and local funding which provide financial assistance.

The bill states that customers are responsible for making satisfactory payment arrangements. Also, in cases of service disconnection, customers are responsible for any backup equipment, for any power supply, or for any other course of action in case of a power outage.

Further, utilities are to establish a program which monitors, by phone or in writing, medically essential customers' health or condition to ensure continuous service, and shall establish a program to monitor certificate renewals.

The bill also provides that, for utilities that receive voluntary customer contributions for financially distressed customers, a list of all the agencies receiving such contributions must be maintained. This list must also be made available upon request. An accounting system is to be maintained identifying specific amounts that utilities have disbursed. The utility and agencies are to maintain a system of accounting for fund recipients. Each utility must also train its customer service representatives to assist customers in obtaining financial assistance.

This act shall take effect upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

Please see "Effect of Proposed Changes" section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Investor-owned electric utilities may be required to provide additional training to existing personnel or to hire additional personnel to specifically accommodate the needs of the medically essential electric service customers.

According to the PSC implementing the provisions of the proposed bill may result in increased costs associated with unpaid electric bills and late paid bills. Also any additionally incurred costs may placed upward pressure on the rates paid by all customers.

D. FISCAL COMMENTS:

According to the PSC, the number may increase of customer complaints before the PSC as to whether a customer qualifies as a medically essential electric service customer. Currently, it is anticipated that any such increase can be managed with current PSC resources. However, if complaints continue to increase over time, additional staff may be needed.

Under the current PSC approved tariffs, IOUs are already providing customer assistance.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the PSC, the definition of a medically essential electric service customer does not include customers which may experience "serious impairment to health or safety." This is likely to limit the number of customers who qualify for medically essential service.

The current utility tariffs require dependence on "continuously operating electric-powered medical equipment" to qualify for medically essential electric service, that requirement is also not in the bill. However, according to the PSC, the overall number of customers who qualify for medically essential electric service is likely to increase compared to the existing tariffs.

On May 5, 2000, HB 2231 died on Calendar.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 17, 2000, the Committee on Utilities and Communications unanimously voted to amend the bill. An amendment to a strike all was adopted as well as an amendment to the amendment.

The amendment changed the definition of "Medically essential" as used in the act. The definition provides that medically essential qualifying customers are those individuals who are dependent on electric-powered medical equipment which is operate 24 hours per day as well as those individuals, including the customer or another permanent resident at the service address, who are dependent on electric-powered medical equipment to avoid the loss of life or immediate hospitalization due to medical complications caused by a power outage. The amendment clarifies that the act is applicable to all electric utilities.

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The amendment eliminated the bill's provisions that required each utility to safeguard from termination of electric service when such service is medically essential as determined by a physician.

The amendment provides that upon customer request, the utility shall provide an explanation of the certification process and provide the appropriate forms. The forms are to be completed prior to service being designated as medically essential. Forms are to be completed by the customer and a physician licensed to practice medicine in the State of Florida. The amendment does not change the requirement that the physician form is to be completed using medical and nonmedical terms to describe the customer's condition.

Recertification of the medically essential services must be made no more frequently than once every 12 months in the same manner as the original certification.

The amendment allows the utility to monitor the health of the program's participants through the certification process. It also conforms the monitoring process with the certification process.

Also in the amendment, utilities are to provide information, on sources of state or local financial assistance, to medically essential customers, who notify the utility of a financial need.

Finally, the amendment provides that nothing in this act shall form the basis for any cause of action for monetary damages against a utility. Failure to comply with the act's provisions does not constitute negligence on the part of the electric utility.

This act shall take effect upon becoming law.

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND COMMUNICATIONS:

Prepared by:

Staff Director:

Wendy G. Holt

Patrick L. "Booter" Imhof

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON UTILITIES AND COMMUNICATIONS:

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