**PUBLIC SERVICE COMMISSION OF WISCONSIN**

**Memorandum**

November 25, 2014

**FOR COMMISSION AGENDA**

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| TO:  | The Commission |  |
| FROM:  | Jeff Stone, AdministratorCarrie Templeton, Assistant AdministratorAndrew Cardon, Consumer AnalystDivision of Water, Compliance and Consumer Affairs |  |
| RE:  | Request for Formal Review of Complaint of Paul Bruno Against Wisconsin Public Service Corporation  | 6690-CC-186319 |

Suggested Minute: The Commission determined that Mr. Paul Bruno’s request for a formal review of his complaint against Wisconsin Public Service Corporation (WPSC), relating to the disconnection of his service, a deferred payment agreement, and other concerns, is (with/without) merit.

**Background**

 Mr. Paul Bruno of Sturgeon Bay, Wisconsin, has requested a formal review of his complaint by the Public Service Commission (Commission) because he disputes Commission staff’s informal determination of his complaint against Wisconsin Public Service Corporation (WPSC). Mr. Bruno asserts that the informal determination was in error because: he not did receive proper notice prior to his service being disconnected; he did not default on a deferred payment agreement; WPSC is required to accommodate his request to have all communications in writing and has not done so; and he qualifies for, but was not provided, a medical extension.[[1]](#footnote-1)

 On August 19, 2014, the Commission received an informal complaint from Mr. Bruno stating that his service had been disconnected without proper notice, that his local Energy Assistance office, We Are Hope, made an error in the assistance that was provided resulting in his deferred payment agreement defaulting, and that he has numerous medical issues, which should have prevented the disconnection of his service.[[2]](#footnote-2)

 Commission staff investigated Mr. Bruno’s complaint by reviewing the information provided by Mr. Bruno and contacting WPSC. After reviewing this information submitted by both Mr. Bruno and WPSC, Commission staff determined that Mr. Bruno received proper notice prior to the disconnection of his electric service, Mr. Bruno did default on a deferred payment agreement established on his account, WPSC is not required to modify its communication methods to ensure all communications with Mr. Bruno are in writing, and WPSC was not required to provide a medical extension or reconnection because Mr. Bruno had not provided a physician’s statement identifying a medical emergency. Commission staff mailed a letter to Mr. Bruno advising him of the informal determination on October 9, 2014, and left a phone message the same day.[[3]](#footnote-3)

 The Commission received an email from Mr. Bruno on October 27, 2014, stating that he wished to appeal the informal determination and requested “further information.”[[4]](#footnote-4) Mr. Bruno called the Commission on October 28, 2014, and clarified that he wanted to request a formal review of his complaint. The Commission received a second email from Mr. Bruno that same day identifying the sections of the informal determination he disputed, and Commission staff sent a letter to him acknowledging his request for formal review on October 31, 2014.[[5]](#footnote-5)

**Analysis of Complaint**

 Mr. Bruno’s complaint and request for formal review dispute the length of notice he received prior to his service being disconnected, the default of his deferred payment agreement, his request that all communications with WPSC be in writing, and his eligibility for a medical extension.

Disconnection Notice

 Mr. Bruno’s request for a formal review states that his service was “illegally disconnected without proper notice causing great physical and emotional distress.”[[6]](#footnote-6) Wisconsin Admin. Code § PSC 113.0301(10)(a) provides that a utility shall not disconnect residential service, “unless written notice is sent to the customer by first class mail or personally served on a responsible adult member of the household at least 10 calendar days prior to the day of the proposed disconnection.” Wisconsin Admin. Code § PSC 113.0301(11)(a) also requires the utility to “make a reasonable effort to have a personal or telephone contact with the residential customer prior to disconnection.”

 In response to the complaint, WPSC provided Commission staff with a copy of a bill mailed to Mr. Bruno on July 31, 2014, which included a disconnection notice stating service was subject to disconnection after August 12, 2014.[[7]](#footnote-7) The utility’s records also show the utility’s automated system called Mr. Bruno on August 11, 2014, and Mr. Bruno called WPSC the same day to complain about the automated call.[[8]](#footnote-8) Mr. Bruno’s electric service was disconnected on August 19, 2014. Commission staff determined that Mr. Bruno was provided proper notice prior to the disconnection of his service.

Deferred Payment Agreement

 Mr. Bruno’s request for a formal review states that his service should not have been disconnected because he complied with the terms of the deferred payment agreement on his account.[[9]](#footnote-9) Wisconsin Admin. Code § PSC 113.0404(2) provides that service shall not be disconnected if the customer establishes a deferred payment agreement wherein “the customer pays a reasonable amount of the outstanding bill and agrees to pay a remaining outstanding balance in installments.” However, Wis. Admin. Code § PSC 113.0301(1m)(a) provides that residential utility service may be disconnected if the customer fails “to comply with the terms of a deferred payment.”

A deferred payment agreement consists of two distinct components: (1) payment of a reasonable amount of the outstanding bill; and (2) installments on the remaining outstanding balance. Payment of a reasonable amount of the outstanding bill is often referred to as a “down payment” to establish a deferred payment agreement.

If a customer pays the down payment, the customer is then required to pay both the current bill and the installment payments in full and on time. In circumstances where a payment is late or is not paid, the agreement defaults, and the utility is not required to offer a new agreement prior to disconnection, unless the customer has had a significant change in ability to pay since the agreement was negotiated (*e.g.,* a loss of employment).

On November 9, 2013, WPSC established a deferred payment agreement with Mr. Bruno under which Mr. Bruno was required to pay his current charges in full each month, plus 11 monthly installments of $145.24 towards his arrears.[[10]](#footnote-10) This deferred payment agreement defaulted on January 29, 2014, due to nonpayment by Mr. Bruno.[[11]](#footnote-11)

Between November 9, 2013, and March 31, 2014, Mr. Bruno received $1,122.00 in Energy Assistance and made a payment of $85.00 on December 9, 2013.[[12]](#footnote-12) However, the bills for his electric consumption during this period totaled $3,364.14.[[13]](#footnote-13) Mr. Bruno explained to Commission staff that his usage was so high because he currently uses electric heating sources.[[14]](#footnote-14)

By March 31, 2014, Mr. Bruno’s account had a past-due balance of $3,856.38.[[15]](#footnote-15) While WPSC was not required to offer a new deferred payment agreement to Mr. Bruno prior to disconnection of his service, Mr. Bruno provided emails indicating he had contacted his local energy assistance office, We Are Hope, whose staff worked with WPSC to establish a deferred payment agreement on his account.[[16]](#footnote-16) WPSC also provided a summary of contacts with Mr. Bruno confirming that on April 16, 2014, a deferred payment was established on the account.[[17]](#footnote-17) Under the terms of the agreement, Mr. Bruno was required to pay $550.00 on April 16, 2014, $450.00 on April 30, 2014, and obtain $500.00 in financial assistance from outside agencies.[[18]](#footnote-18)

WPSC’s records show that the $550.00 payment was made by Mr. Bruno on April 16, 2014, and a second $450.00 payment was made on April 30, 2014.[[19]](#footnote-19) However, WPSC’s records show Mr. Bruno did not secure the $500.00 from outside agencies, as required by the deferred payment agreement.[[20]](#footnote-20) This caused the agreement to break and WPSC’s records show a disconnection notice was issued to Mr. Bruno on May 22, 2014.[[21]](#footnote-21)

WPSC’s records indicate that while no further deferred payment agreements were established on Mr. Bruno’s account prior to his service being disconnected on August 19, 2014, several payments were received from Mr. Bruno, Energy Assistance (EA) and outside agencies preventing disconnection of the service during that time period.[[22]](#footnote-22) The utility’s records show the last payment received prior to the August 19, 2014, disconnection was a $150.00 payment by the Salvation Army on July 17, 2014.[[23]](#footnote-23) As Mr. Bruno’s account had a past-due balance of $2,502.32, as of July 31, 2014, and there was not a current deferred payment agreement on the account, service was disconnected.[[24]](#footnote-24)

During the complaint process, Commission staff determined that Mr. Bruno had defaulted on the deferred payment agreement by failing to secure the $500.00 in assistance from outside agencies; however, WPSC was willing to offer Mr. Bruno a new deferred payment agreement and Commission staff communicated that information to him in writing.[[25]](#footnote-25) Under the terms of the new agreement, Mr. Bruno was required to pay $1,000.00 of his $2,905.54 account balance by October 17, 2014. Then Mr. Bruno would be required to pay his current charges in full each month, plus monthly installments of $158.80 for 11 months and a final installment of $158.74. Mr. Bruno did not make the required payment by October 17, 2014, and his service was disconnected on October 28, 2014.[[26]](#footnote-26) Service was reconnected on October 29, 2014, after WPSC received a payment from Mr. Bruno.[[27]](#footnote-27)

Request to Have All Communications in Writing

Mr. Bruno’s request for formal review indicates he has requested that all communication with WPSC be in writing and the utility has refused to accommodate this request.[[28]](#footnote-28) In his complaint, he stated he believed this accommodation was required under the Americans with Disabilities Act (ADA).[[29]](#footnote-29) Mr. Bruno also indicated in his request for formal review he would be filing a complaint regarding this issue in the appropriate venue.

The ADA provides that enforcement of ADA claims is the responsibility of federal courts, the U.S. Attorney General and certain federal agencies. Title II and Title III of the ADA do not apply to the provision of utility service provided by WPSC. Title II relates to public services applicable to a “public entity,” which, by definition, is limited to state or local government, department or instrumentality of the state, or a national railroad passenger service.

WPSC does not fall within the definition of a “public entity.” The fact that it is regulated by the state does not make it a department or instrumentality of the state. As such, Title II does not apply to the provision of utility service because WPSC is not a public entity. Therefore, Commission staff determined that the utility is not required to modify its communication methods.[[30]](#footnote-30)

Mr. Bruno also raises concerns related to the utility’s debt collection practices. However, the Commission has no specific regulations related to utility contacts attempting to collect debts and the Fair Debt Collection Practices Act is enforced by the Federal Trade Commission.

Medical Extensions and Reconnections

Finally, Mr. Bruno’s request for formal review states that he was eligible for a medical extension but was not provided an extension.[[31]](#footnote-31) Wisconsin Admin. Code § PSC 113.0301(13)(a) provides that a “utility shall postpone the disconnection of service, or reconnect the service if disconnected, for up to 21 days to enable the occupant to arrange for payment, if the occupant produces a licensed Wisconsin physician's statement or notice from a public health, social services or law enforcement official which identifies the medical or protective services emergency and specifies the period of time during which disconnection will aggravate the circumstances.”

WPSC’s records show a medical form was sent by WPSC to Mr. Bruno’s physician on August 20, 2014, however, WPSC indicates the form was returned by the physician’s office the next day indicating Mr. Bruno’s signature was required for the information to be released.[[32]](#footnote-32) Mr. Bruno called the Commission on August 21, 2014 and indicated he did not want to give the utility access to his medical information.[[33]](#footnote-33) Due to the utility not receiving a statement from a licensed Wisconsin physician indicating a medical emergency, Commission staff determined WPSC was not required to provide an extension or reconnection of service under Wis. Admin. Code § PSC 113.0301(13)(a).

**Commission Alternatives**

 **Alternative One:** Determine that Mr. Bruno’s complaint has merit.

 **Alternative Two:** Determine that Mr. Bruno’s complaint does not have merit.

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| cc: | Paul BrunoWisconsin Public Service Corporation |

Key Background Documents

[6690-CC-186319 Bruno Confidential Appendix.pdf - DL: 948948](http://intranet/DL/document/ViewFile.aspx?id=E8C543A0C32A4781A1BE02C05E7300C0)

1. See 6680-CC-186319 Confidential Appendix (Second Attachment to October 28, 2014, Email from Mr. Bruno to the Commission Requesting Formal Review). Mr. Bruno’s request for a formal review also asks that the Commission answer numerous questions and provide the names and titles of all WPSC employees, contractors and organizations related to his request. Mr. Bruno’s questions are addressed to the extent necessary to determine if WPSC is in compliance with Commission regulations, but names and titles of individuals and organizations associated with WPSC are not included. [↑](#footnote-ref-1)
2. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-2)
3. See 6680-CC-186319 Confidential Appendix (Close Out Letter Dated October 9, 2014, from Commission Staff to Mr. Bruno). [↑](#footnote-ref-3)
4. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). Due to the lack of detail in the October 27, 2014, email, Commission staff was unable to determine what part of the informal determination he disagreed with or whether he was simply requesting additional information. On October 28, 2014, Mr. Bruno submitted additional information indicating that he disagreed with specific findings in the informal determination. On October 28, 2014, Mr. Bruno’s service was disconnected for nonpayment. Service was subsequently restored upon receipt of a payment by Mr. Bruno. [↑](#footnote-ref-4)
5. See 6680-CC-186319 Confidential Appendix (Acknowledgement of Request for Formal Review). [↑](#footnote-ref-5)
6. See 6680-CC-186319 Confidential Appendix (Second Attachment to October 28, 2014, Email from Mr. Bruno to the Commission Requesting Formal Review). [↑](#footnote-ref-6)
7. See 6680-CC-186319 Confidential Appendix (Bill Dated July 31, 2014, from WPSC to Mr. Bruno with Disconnection Notice). [↑](#footnote-ref-7)
8. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-8)
9. See 6680-CC-186319 Confidential Appendix (Second Attachment to October 28, 2014, Email from Mr. Bruno to the Commission Requesting Formal Review). [↑](#footnote-ref-9)
10. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations). [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-14)
15. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations). [↑](#footnote-ref-15)
16. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-16)
17. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-17)
18. *Id*. [↑](#footnote-ref-18)
19. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations). [↑](#footnote-ref-19)
20. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations and WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-20)
21. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). In addition, to the disconnection notice on May 22, 2014, WPSC’s records show the bills issued on June 2, 2014, June 30, 2014, and July 31, 2014, all contained disconnection notices. [↑](#footnote-ref-21)
22. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations). Among the various payments made on Mr. Bruno’s account were three payments by EA on June 12, 2014, totaling $1,122.00. Emails provided by Mr. Bruno state that EA reviewed the award and determined that only $353.00 should have been provided, although the total amount applied appears to be $431.00. The emails also state We Are Hope indicated it would provide the $769.00 that was being reversed by EA. WPSC’s records do not show a payment for this amount.

Mr. Bruno’s request for formal review states, “it is clear that WPS took action to breach the [deferred payment agreement] when a recalculation of energy assistance was ordered by the State of Wisconsin.” However, WPSC indicated the agreement defaulted due to Mr. Bruno not receiving $500.00 from outside agencies, not the reversal of the EA funds. Mr. Bruno’s concern regarding the funds allegedly promised by We Are Hope would not be addressed by the Commission, as the Commission does not regulate We Are Hope. [↑](#footnote-ref-22)
23. See 6680-CC-186319 Confidential Appendix (Billing and Payment History with WPSC Notations). [↑](#footnote-ref-23)
24. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-24)
25. See 6680-CC-186319 Confidential Appendix (Close Out Letter Dated October 9, 2014, from Commission Staff to Mr. Bruno). [↑](#footnote-ref-25)
26. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. See 6680-CC-186319 Confidential Appendix (Second Attachment to October 28, 2014, Email from Mr. Bruno to the Commission Requesting Formal Review). [↑](#footnote-ref-28)
29. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-29)
30. See 6680-CC-186319 Confidential Appendix (Close Out Letter Dated October 9, 2014, from Commission Staff to Mr. Bruno). [↑](#footnote-ref-30)
31. See 6680-CC-186319 Confidential Appendix (Second Attachment to October 28, 2014, Email from Mr. Bruno to the Commission Requesting Formal Review). [↑](#footnote-ref-31)
32. See 6680-CC-186319 Confidential Appendix (WPSC Summary of Contacts with Mr. Bruno). [↑](#footnote-ref-32)
33. See 6680-CC-186319 Confidential Appendix (Complaint Narrative from CCS). [↑](#footnote-ref-33)