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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 2097

March 14, 2007

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The bill was read for the first time and referred to the Energy Finance and Policy Division

March 20, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to energy; regulating service disconnections by public utilities during
1.3 winter; proposing coding for new law in Minnesota Statutes, chapter 216B;
1.4 repealing Minnesota Statutes 2006, section 216B.095.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [216B.096] COLD WEATHER RULE; PUBLIC UTILITIES.

1.7 Subdivision 1. Scope. This section applies only to residential customers of a
1.8 public utility.

1.9 Subd. 2. Definitions. (a) The terms used in this section have the meanings given
1.10 them in this subdivision.

1.11 (b) "Cold weather period" means the period from October 15 through April 15 of
1.12 the following year.

1.13 (c) "Customer" means a residential customer of a utility.

1.14 (d) "Customer's income" means the actual monthly income of the customer or the
1.15 average monthly income of the customer computed on a calendar year basis, whichever is
1.16 less, and does not include any amount received for energy assistance.

1.17 (e) "Disconnection" means the involuntary loss of utility heating service as a result
1.18 of a physical act by a utility to discontinue service. Disconnection includes installation of
1.19 a service or load limiter or any device that limits or interrupts utility service in any way.

1.20 (f) "Household income" means the combined income, as defined in section 290A.03,
1.21 subdivision 3, of all residents of the customer's household, computed on an annual basis.
1.22 Household income does not include any amount received for energy assistance.

1.23 (g) "Reasonably timely payment" means payment within seven calendar days of
1.24 agreed-upon due dates.

2.1 (h) "Reconnection" means the restoration of utility heating service after it has been  
2.2 disconnected.

2.3 (i) "Third party notice" means a commission-approved notice containing, at a  
2.4 minimum, the following information:

2.5 (1) a statement that the utility will send a copy of any future notice of proposed  
2.6 disconnection of utility heating service to a third party designated by the residential  
2.7 customer;

2.8 (2) instructions on how to request this service; and

2.9 (3) a statement that the residential customer should contact the person the customer  
2.10 intends to designate as the third party contact before providing the utility with the party's  
2.11 name.

2.12 (j) "Utility" means a public utility as defined in section 216B.02.

2.13 (k) "Utility heating service" means natural gas or electricity used as a primary  
2.14 heating source, including electricity service necessary to operate gas heating equipment.

2.15 (l) "Working days" means Mondays through Fridays, excluding legal holidays.

2.16 **Subd. 3. Utility obligations before cold weather period.** (a) Each year, between  
2.17 September 1 and October 15, each utility must notify all customers of the provisions of  
2.18 this section. Notice must also be provided to all new residential customers when service is  
2.19 initiated. Notice must, at a minimum, include:

2.20 (1) an explanation of the customer's rights and responsibilities under subdivision 5;

2.21 (2) an explanation of no-cost and low-cost methods to reduce the consumption  
2.22 of energy; and

2.23 (3) a third party notice.

2.24 (b) Also, each year, between September 1 and October 15, each utility must attempt  
2.25 to contact, establish a payment agreement, and reconnect utility heating service to all  
2.26 customers who were disconnected after the preceding heating season. A record must be  
2.27 made of all contacts and attempted contacts.

2.28 **Subd. 4. Notice before disconnection during cold weather period.** Before  
2.29 disconnecting utility heating service during the cold weather period, a utility must provide  
2.30 notice to a customer, in easy-to-understand language, that contains the following:

2.31 (1) the date of the scheduled disconnection;

2.32 (2) the amount due;

2.33 (3) ways to avoid disconnection;

2.34 (4) information regarding payment agreements;

2.35 (5) a statement explaining the customer's rights and responsibilities, including the

2.36 right to appeal a determination by the utility that the customer is not eligible for protection

3.1 and the right to request commission intervention if the utility and customer cannot arrive  
3.2 at a mutually acceptable payment agreement;

3.3 (6) a list of local energy assistance and weatherization providers in each county  
3.4 served by the utility; and

3.5 (7) a third party notice.

3.6 Subd. 5. **Cold weather rule.** (a) During the cold weather period, a utility may  
3.7 not disconnect and must reconnect a customer whose household income is at or below  
3.8 50 percent of the state median income if the customer enters into and makes reasonably  
3.9 timely payments under a mutually acceptable payment agreement with the utility that is  
3.10 based on the financial resources and circumstances of the household; provided that, a  
3.11 utility may not require a customer to pay more than ten percent of the customer's income  
3.12 toward current and past utility bills for utility heating service.

3.13 (b) A utility may accept more than ten percent of the household income as the  
3.14 payment arrangement amount if agreed to by the customer.

3.15 (c) The customer or a designated third party may request a modification of the terms  
3.16 of a payment agreement previously entered into if the customer's financial circumstances  
3.17 have changed or the customer is unable to make reasonably timely payments. The utility  
3.18 may refer to commission staff a customer who requests more than two modifications of a  
3.19 payment agreement during a single cold weather rule period if no payments have been  
3.20 made.

3.21 (d) The payment agreement terminates at the expiration of the cold weather period  
3.22 unless a longer period is mutually agreed to by the customer and the utility.

3.23 Subd. 6. **Verification of income.** (a) In verifying a customer's household income,  
3.24 a utility may:

3.25 (1) accept the signed statement of a customer that the customer is income eligible;

3.26 (2) obtain income verification from a local energy assistance provider or a  
3.27 government agency;

3.28 (3) consider one or more of the following:

3.29 (i) the most recent income tax return filed by members of the customer's household;

3.30 (ii) for each employed member of the customer's household, paycheck stubs for the  
3.31 last two months or a written statement from the employer reporting wages earned during  
3.32 the preceding two months;

3.33 (iii) a customer's Medicaid card, documentation that the customer receives food  
3.34 stamps, or a food support eligibility document;

4.1 (iv) documentation that the customer receives a pension from the Department of  
4.2 Human Services, the Social Security Administration, the Veteran's Administration, or  
4.3 other pension provider;

4.4 (v) a letter showing the customer's dismissal from a job or other documentation of  
4.5 unemployment; or

4.6 (vi) other documentation that supports the customer's declaration of income  
4.7 eligibility.

4.8 (b) A customer who receives energy assistance benefits under any federal, state,  
4.9 or county government programs in which eligibility is defined as household income at  
4.10 or below 50 percent of state median income is deemed to be automatically eligible for  
4.11 protection under this section and no other verification of income may be required.

4.12 Subd. 7. **Prohibitions and requirements.** During the cold weather period:

4.13 (a) A utility may not charge a deposit or delinquency charge to a customer who has  
4.14 entered into a payment agreement or a customer who has appealed to the commission  
4.15 under subdivision 8.

4.16 (b) A utility may not disconnect service during the following periods:

4.17 (1) during the pendency of any appeal under subdivision 8;

4.18 (2) earlier than ten working days after a utility has deposited in first class mail,  
4.19 or seven working days after a utility has personally served, the notice required under  
4.20 subdivision 4 to a customer in an occupied dwelling;

4.21 (3) earlier than ten working days after the utility has deposited in first class mail  
4.22 the notice required under subdivision 4 to the recorded billing address of the customer,  
4.23 if the utility has reasonably determined from an on-site inspection that the dwelling  
4.24 is unoccupied;

4.25 (4) on a Friday, unless the utility makes personal contact with, and offers a payment  
4.26 agreement to, the customer;

4.27 (5) on a Saturday, Sunday, holiday, or the day before a holiday;

4.28 (6) when utility offices are closed;

4.29 (7) when no utility personnel are available to resolve disputes, enter into payment  
4.30 agreements, accept payments, and reconnect service; or

4.31 (8) when commission offices are closed.

4.32 (c) Also, a utility may not discontinue service until the utility investigates whether  
4.33 the dwelling is actually occupied. At a minimum, the investigation must include one visit  
4.34 by the utility to the dwelling during normal working hours. If no contact is made and  
4.35 there is reason to believe that the dwelling is occupied, the utility must attempt a second  
4.36 contact during nonbusiness hours. If personal contact is made, the utility representative

5.1 must provide notice required under subdivision 4 and, if the utility representative is not  
5.2 authorized to enter into a payment agreement, the telephone number the customer can call  
5.3 to establish a payment agreement.

5.4 (d) Each utility must reconnect utility service if, following disconnection, the  
5.5 dwelling is found to be occupied and the customer agrees to enter into a payment  
5.6 agreement or appeals to the commission because the customer and the utility are unable to  
5.7 agree on a payment agreement.

5.8 **Subd. 8. Disputes; customer appeals.** (a) A utility must provide the customer  
5.9 and any designated third party with a commission-approved written notice of the right  
5.10 to appeal:

5.11 (1) a utility determination that the customer's household income is more than 50  
5.12 percent of state median household income; or

5.13 (2) when the utility and customer are unable to agree on the establishment or  
5.14 modification of a payment agreement.

5.15 (b) A customer's appeal must be filed with the commission no later than seven  
5.16 working days after the customer's receipt of a personally served disconnection notice, or  
5.17 within ten working days after the utility has deposited a first class mail notice. If no  
5.18 disconnection notice has been issued, an appeal may be filed at any time.

5.19 (c) The commission must determine all customer appeals on an informal basis,  
5.20 within 30 calendar days of receipt of a customer's written appeal. In making its  
5.21 determination, the commission must consider one or more of the factors in subdivision 6,  
5.22 paragraph (a), clauses (2) and (3).

5.23 (d) Notwithstanding any other law, following an appeals decision adverse to the  
5.24 customer, a utility may not disconnect utility heating service for seven working days  
5.25 after the utility has personally served a disconnection notice, or for ten working days  
5.26 after the utility has deposited a first class mail notice. The notice must contain, in  
5.27 easy-to-understand language, the date on or after which disconnection will occur, the  
5.28 reason for disconnection, and ways to avoid disconnection.

5.29 **Subd. 9. Utility appeals.** A utility may file an appeal of the commission's informal  
5.30 determination under subdivision 8 within 14 working days after it is issued. An appeal  
5.31 must be in writing, on forms prescribed by the commission. A copy of the appeal and a  
5.32 commission-approved letter explaining that the customer may have service disconnected  
5.33 must be mailed by the utility to the local human services or social services agency and  
5.34 the local energy assistance provider on the same day as the utility mails its appeal to  
5.35 the commission.

6.1 Subd. 10. **Reporting.** Annually on November 1, a utility must file with the  
6.2 commission a report specifying the number of utility heating service customers whose  
6.3 service is disconnected or remains disconnected as of October 1 and October 15. If  
6.4 customers remain disconnected on October 15, a utility must file a report each week  
6.5 between November 1 and the end of the cold weather period specifying:

6.6 (1) the number of utility heating service customers that are or remain disconnected  
6.7 from service; and

6.8 (2) the number of utility heating service customers that are reconnected to service  
6.9 each week. The utility may discontinue weekly reporting if the number of utility heating  
6.10 service customers that are or remain disconnected reaches zero before the end of the  
6.11 cold weather period.

6.12 **Sec. 2. RULES; INSTRUCTION TO COMMISSION AND REVISOR.**

6.13 Subdivision 1. **Public Utilities Commission.** The commission must amend  
6.14 Minnesota Rules, chapters 7820 and 7831, to conform with the provisions of section 1 as  
6.15 authorized under Minnesota Statutes, section 14.388, subdivision 1, clause (3).

6.16 Subd. 2. **Revisor of statutes.** The revisor of statutes shall change the reference from  
6.17 "216B.095" to "216B.096" wherever found in Minnesota Rules, chapter 7820.

6.18 **Sec. 3. REPEALER.**

6.19 Minnesota Statutes 2006, section 216B.095, is repealed.