



Utility Guide to the Cold Weather Rule and Other Customer Protection Statutes

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***Minnesota Municipal
Utilities Association***

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Important Legal Information

This guide presents a general discussion of statutory requirements under the Minnesota's Cold Weather Rule and other customer protection statutes for municipal utilities and cooperative electric associations. It is not meant to constitute a legal opinion. You may wish to review this guide, and/or your local Cold Weather Rule and other disconnection policies and procedures with your attorney.

Cold Weather Rule Minn Stat §216B.097

Protections

A municipal utility or a cooperative electric association must not disconnect and must reconnect the utility service of a residential customer during the period between October 15 and April 15 if the disconnection affects the primary heat source and the customer meets the eligibility criteria below.

Customer Eligibility

To be eligible for protection from residential utility service shutoff, a customer must meet the following criteria and requirements:

- 1) The household income of the customer is at or below 50 percent of the state median household income.
 - a. A customer is deemed to meet the income requirements if the customer receives any form of public assistance - including energy assistance - that uses an income eligibility threshold set at or below 50 percent of the state median household income. The utility may:
 - i. obtain verification of income from the local energy assistance provider, if available, or
 - ii. require income information from the customer on forms provided by the utility (Exhibit VI) and compare it to the current state median household income figure available on the [Energy Assistance Eligibility page](#) at the website of the Department of Commerce, Division of Energy Resources.
- 2) The customer enters into and makes reasonably timely payments under a payment agreement that considers the financial resources of the household.

Utility Duties

Between August 15 and October 15 each year, all utilities must notify all residential customers of the Cold Weather Rule protections. (Exhibit II)

All utilities must provide customers seeking protection with referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's energy bills. (Exhibit V)

Customer Notification Before Disconnection

Before disconnecting service to a residential customer during the period between October 15 and April 15, a municipal utility or co-op must provide the customer with all of the following items:

- 1) A notice of the proposed disconnection (Exhibit III)
- 2) A statement explaining the customer's rights and responsibilities (Exhibit IV)
- 3) A list of local energy assistance providers (Exhibit V)
- 4) Forms on which to declare the inability to pay (Exhibit VI)
- 5) A statement explaining available time payment plans and other opportunities to secure continued utility service (Exhibit VII)

Disconnection Restrictions

If a residential customer is to be involuntarily disconnected between October 15 and April 15, the disconnection may not occur:

- 1) on a Friday, unless that day the customer declines to enter in to a payment agreement offered by the municipal utility or co-op via personal contact or telephone,
- 2) on a weekend, holiday, or day before a holiday,
- 3) when utility offices are closed, or
- 4) after the close of business, unless a field representative of the utility who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer.

Disconnection must not occur until at least 20 days after the disconnection notice (described above) has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

Non-Responsive Customer

If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied.

- 1) If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of the Cold Weather Rule.
- 2) If the unit is unoccupied, the utility must give seven days written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

Customer Appeals

Under the Cold Weather Rule, if a customer appeals a notice of involuntary disconnection prior to disconnection, as provided by the utility's established appeal procedure, the utility must not disconnect the customer until the appeal is resolved.

Service Limiters

Under the Cold Weather Rule, "disconnection" includes a service or load limiter or any device that limits or interrupts electric service in any way.

Disconnection in Extreme Heat Minn Stat §216B.0975

A utility may not involuntarily disconnect the service of residential customers in affected counties when the National Weather Service issues any of the following:

- 1) Excessive heat watch
- 2) Heat advisory
- 3) Excessive heat warning

Medically Necessary Equipment Minn Stat §216B.098, subd. 5

A utility shall reconnect or continue service to a residential customer where a medical emergency exists or where medical equipment necessary to sustain life is in use, if the utility receives certification that failure to reconnect service or continue service will impair or threaten the health or safety of a resident of the customer's household. Certification shall be written, but may include an initial certification by telephone followed up by written certification within five business days.

Certification may be provided by any of the following:

- 1) A licensed medical doctor
- 2) A licensed physician assistant
- 3) A nurse licensed as an advanced practice registered nurse
- 4) A registered nurse (RN), but only to the extent of verifying the current diagnosis or prescriptions made by a licensed medical doctor

Certification is valid for six months from the date of the written certification. However a utility may allow a certification to last longer.

Certifications may be renewed by the same or another medical professional that meets the above criteria.

A customer with medically necessary equipment whose account is in arrears must contact the utility and enter into a payment agreement with the utility to receive protection from disconnection. The payment agreement must consider the customer's financial circumstances and any extenuating circumstances of the household. At the discretion of the utility, the payment agreement may contain provisions forgiving all or a portion of the amount in arrears. If such a provision is included, the customer's liability for the forgiven amount is extinguished.

Other Residential Customer Protections Minn Stat §216B.098

Budget Billing. Utilities (other than municipal utilities having 3,000 or fewer customers) must offer residential customers a budget billing plan. Adequate notice must be provided to customers before changing budget billing amounts.

Payment Agreements. Utilities must offer payment agreements for the payment of arrears that consider the customer's financial circumstances and any extenuating circumstances of the household. No additional service deposit may be charged as a condition of continuing service to a customer that has entered into and is making reasonably timely payments under an agreement.

Terms and Conditions. Municipal and cooperative utilities may establish terms and conditions for budget billing plans and payment agreements as described above.

Undercharges. Utilities must offer payment agreements to customers that have been undercharged if the undercharge is by no fault of the customer. The payment agreement must cover a time period equal to the period of time which the customer was undercharged, or a different time period that is mutually agreed upon by the utility and the customer. If the customer has a household income at or below 50 percent of the state median income, the payment agreement must consider the financial circumstances of the household.

Notice to Cities Minn Stat §216B.0976

A utility must provide notice to a city of the disconnection of a customer's gas or electric service. Upon written request from the city, on October 15 and November 1 (or the next business day if those dates fall on a Saturday) the utility must provide a report of the addresses currently disconnected and the dates they were disconnected. Also upon written request from the city, daily reports must be provided which list the addresses and dates of any newly disconnected properties.

(The City is required to provide this information to the police and fire departments within three business days. All utility customer data in cities with municipal electric service are confidential under Minnesota's Data Practices Act (Minnesota Statutes 13.02) and must not be released outside these public agencies.)

Frequently Asked Questions

Do customers have to be current in their overall bill payments on October 15 to be eligible for Cold Weather Rule protections?

No. In 2007, the Cold Weather Rule statute was changed to clarify that disconnected customers must be reconnected by October 15 if they meet the eligibility conditions.

What constitutes a "reasonably timely payment"?

This term is not defined in the Cold Weather Rule statute that applies to municipal and cooperative utilities. However, the Customer Protection statute (216B.098, subd. 1) states that municipal and cooperative utilities may establish terms and conditions for payment agreements as well as budget plans.

(Note: In a separate statute, the Cold Weather Rule for investor-owned utilities defines "reasonably timely payment" as within five days of the due date.)

What does it mean for a payment plan to "consider the financial resources of the household"?

Again, this consideration is not spelled out in statute, so municipal and cooperative utilities may set out what they consider to be reasonable payment amounts in relation to household financial resources. For clarity and enforceability, this ratio could be set in utility policy with flexibility for special circumstances.

(Note: In a separate statute, the Cold Weather Rule for investor-owned utilities states that a utility cannot require a residential customer to pay more than 10% of the monthly household income on past or current utility heating bills.)

Does my utility have to notify all residential customers about the Cold Weather Rule every year?

Yes, the law requires that annually between August 15 and October 15, municipal utilities and co-ops must send notice of Cold Weather Rule protections to all residential customers.

What if a customer enters into a payment plan, but fails to make payments? If the customer faces disconnection, must my utility again provide information on the Cold Weather Rule protection and offer payment plans and opportunities to continue service?

Yes, the statute specifically states that before disconnecting service to a residential customer between October 15 and April 15, the utility must provide the following information to the customer:

disconnection notice, a statement of the customers rights and responsibilities, a list of local energy assistance providers, forms where the customer can declare their inability to pay, and information on available time payment plans and other opportunities to secure continued service.

Does my utility need an appeals process for involuntary disconnections?

The Cold Weather Rule statute directs residential customers to utilize the municipal or cooperative utility's established appeal procedure to appeal an involuntary disconnection. It is therefore advisable to have a formal, even if simple, procedure in place.

Does my utility really have to check the property status if a customer does not respond to a disconnection notice?

Yes. If the property is occupied, the utility must again provide the customer with notice of Cold Weather Rule protections. If the property does not appear to be occupied, seven days' notice must be provided to the local energy assistance provider before disconnection occurs.

How long does a customer's payment agreement need to last?

The payment agreement must remain in effect until April 15, which is the end of Cold Weather Rule protection period. However, utilities may offer agreements with longer terms.

Is there a list of "medically necessary equipment"?

No, there is not a list of equipment to which the medically necessary equipment statute applies. The statute applies to "medical equipment requiring electricity necessary to sustain life" which, for people with certain conditions, could include refrigerators or nebulizers for insulin or medications.

Is a certification valid indefinitely?

No. A utility may require certification renewal as often as every six months at its discretion.

Exhibit I - Disconnection policy

Subdivision 1

(Name of utility) will not disconnect the utility service of a residential customer during the period between October 15 and April 15 if the disconnection affects the primary heat source for the residential unit when the following conditions are met:

- 1) The customer has verified an inability to pay on forms provided by the utility or is receiving any form of public assistance, including energy assistance, that uses an income eligibility threshold set at or below 50 percent of the state median household income;
- 2) The customer has entered into a payment schedule and is reasonably current with payments under the schedule. The payment schedule will reflect consideration of the financial resources of the household.

(Name of utility) will provide customers seeking Cold Weather Rule protection with referrals to energy assistance programs, weatherization and conservation information and other programs likely to reduce the customer's energy bills. (Utility) will also notify all residential customers of the provisions above annually between August 15 and October 15..

Subdivision 2

Before disconnecting service to a residential customer during the period between October 15 and April 15, (name of utility) will provide all of the following to a customer:

- 1) A notice of the proposed disconnection
- 2) A statement explaining the customer's rights and responsibilities
- 3) A list of local energy assistance providers
- 4) A form on which to declare the inability to pay
- 5) A statement explaining available time payment plans and other opportunities to secure continued utility service

Subdivision 3

If a residential customer must be involuntarily disconnected between October 15 and April 15 for failure to comply with the provisions of state law, rule and/or utility policy, the disconnection must not occur:

- 1) on a Friday, unless that day the customer declines to enter into a payment agreement offered by (name of utility) in person or via personal contact by telephone,
- 2) on a weekend, holiday, or day before a holiday,
- 3) when utility offices are closed,
- 4) after the close of business, unless a field representative of the utility who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer, or
- 5) until at least 20 days after the disconnection notice has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

Subdivision 4

If a customer does not respond to a a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of the Cold Weather Rule. If the unit is unoccupied, the utility must give seven days written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

If a customer appeals a notice of involuntarily disconnection prior to disconnection, as provided by (name of utility)'s established appeal procedure, the utility must not disconnect until the appeal is resolved.

Exhibit II - Annual notice to all residential customers

Bills can pile up just like snow. But a Minnesota state law called the “Cold Weather Rule” is designed to protect people who have trouble paying their utility bills in winter. The Cold Weather Rule applies from October 15 to April 15. It says that utility service affecting your home’s primary source of heat must not be disconnected and must be reconnected during this period if you meet all of the following requirements:

- 1) Your total household income is less than 50 percent of the state median household income, and
- 2) You and your utility enter into a payment agreement that considers the financial resources of your household and you continue to make reasonably timely payments under that agreement.

If you are concerned about being able to pay your utility bill, please contact (name of utility and phone number). We can provide you with referrals to local energy assistance providers.

If you know you’re going to have trouble paying your utility bills, please contact us to work out a payment agreement.

Exhibit III - Notice of proposed disconnection

We have not yet received full payment of past-due charges shown on your latest bill. You now owe (name of utility) \$ (amount).

Please pay this amount in full or call the utility to enter a payment plan before (date). If you do not, we may disconnect your service on or after that date.

Minnesota's "Cold Weather Rule" law provides certain other legal rights concerning this notice. Please review the enclosed Notice of Residential Customer Rights and Responsibilities, list of local energy assistance providers, form on which to state your inability to pay, and optional third-party contact form.

Please act today.

(Name of utility)

(Telephone number)

EXHIBIT IV – Notice of Residential Customer Rights and Responsibilities

Customer Rights

Under the Cold Weather Rule (Minn. Stat. 216B.097), Minnesotans have the right not to have their utility service disconnected and to have it reconnected from October 15 to April 15 if it affects the primary heat source of their residence and their total household income is at or below 50 percent of the state median household income. If a customer does not meet the responsibilities outlined below, utility service may still be discontinued. If a customer disputes the utility's decision to disconnect, the customer has the right to contact the utility and appeal the decision through the utility's established appeal procedure.

If service is to be disconnected, the disconnection must not occur:

- 1) on a Friday, unless that day the customer declines to enter into a payment agreement offered by the utility in person or via personal contact by telephone,
- 2) on a weekend, holiday, or day before a holiday,
- 3) when utility offices are closed,
- 4) after the close of business, unless a field representative of the utility who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer, or
- 5) until at least 20 days after the disconnection notice has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

Customer Responsibilities

In order to have the rights stated above, a customer must do the following:

- 1.) Provide the utility with information to verify that the customer meets the income eligibility requirement. The utility may ask the customer to fill out a form or simply ask if the customer receives any form of public assistance that requires recipients to have income at or below 50% of the state median household income.
- 2.) Contact the utility and come to a mutually agreeable schedule for making monthly payments toward utility bills. The agreement must consider the financial resources of the household.
- 3.) Continuously make the payments required under the agreement. Payments must be made in a reasonably timely manner. If financial circumstances change and the customer cannot make scheduled payments, the customer must notify the utility of the need to make changes to the agreement.

Exhibit V - List of local energy assistance providers

The organizations listed below offer assistance to people in our area who are having difficulty paying their utility bills.

EXHIBIT VI - Inability to pay/income eligibility form

IF YOU CAN'T PAY YOUR FULL BILLS AND NEED COLD WEATHER PROTECTION FROM UTILITY SHUTOFF, fill out this form and return it to (name of utility) immediately. The Cold Weather Rule provides that from October 15 through April 15 a utility cannot disconnect a residential utility customer if you enter into, and keep current with, a mutually agreed upon payment arrangement with the utility.

Fill out completely - please print

NAME _____

SERVICE ADDRESS _____ APT# _____

CITY _____ STATE _____ ZIP _____ PHONE: HOME _____ WORK _____

ACCOUNT NUMBER FROM YOUR BILL _____

TOTAL AMOUNT YOU OWE _____

Total annual (yearly) household income \$ _____ .

Number of persons in household (include yourself) _____

If you receive a form of public assistance for people with total household income at or below 50% of the state median household income level, please indicate that assistance program (for instance, Energy Assistance) on the line(s) below. You may automatically qualify for Cold Weather Rule protection based on your eligibility for that program

Payment Arrangements

I propose to pay my outstanding and future bills according to the following schedule of payments:

\$ _____ by (date)

By signing this form, I hereby acknowledge that I have received, read and understand the enclosed Notice of Residential Customer's Rights and Possible Assistance. I declare that the above information is true and correct. I give my permission to any energy provider or public assistance agency that serves me to exchange income and billing information for the purpose of program qualification.

Customer Signature: _____ Date: _____

Exhibit VII - Explanation of payment plan and other options

Qualifying residential customers of (name of utility) can avoid wintertime service disconnection despite an inability to pay the full amount of their monthly bills. However, some amount must be paid every month. That amount can be determined through a conversation with the utility and set out in a month-by-month payment plan.

(Name of utility) can also advise customers regarding other options that may be available to assist them in making their utility bill payments.

Please contact the utility office promptly at (utility phone number) to arrange a payment plan and find if other assistance may be available.

Exhibit VIII - Third party contact form

Under some circumstances, a customer facing disconnection may need someone else to be responsible for communications with the utility. The customer must consent to allow the utility to work with another person or party regarding the customer's service. That might be an individual or a community action agency or other local energy assistance provider. The utility can create and send a form like the two-sided template below to obtain that customer consent.

Front

THIRD PARTY CONTACT FORM

If you have been served a notice of proposed disconnection by your utility, you may want to alert a third party (friend, relative, church group, or community agency) that a disconnection notice has been issued to you. The third party will not be responsible to pay your bill. The third party does have the right to contact the utility and provide information or work out a payment arrangement on your behalf.

If you would like a third party to be notified of the potential disconnection, please complete the form on the back of this insert and return it to the utility.

Back

Customer Name _____

Account Number _____

Service Address _____

Home Phone _____

Work Phone _____

The utility has my permission to provide information to and accept information from the party named below:

Customer Signature

Date _____

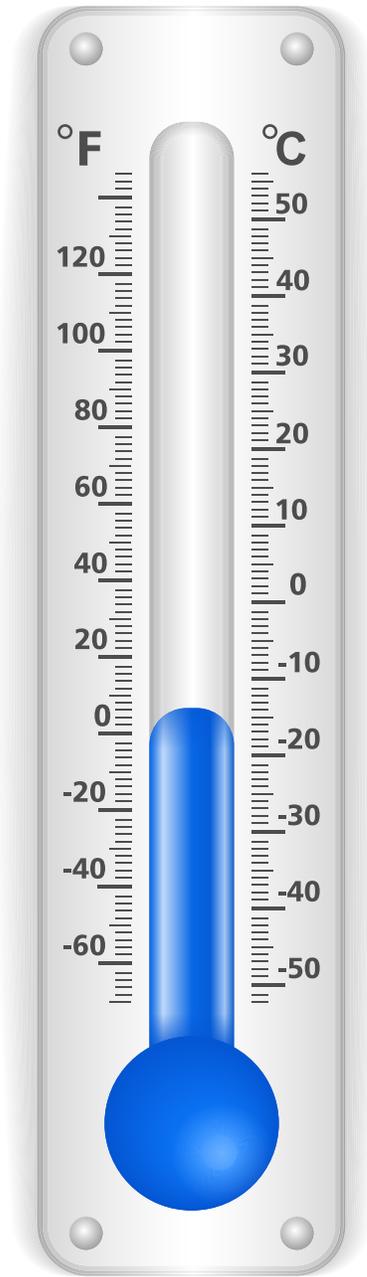
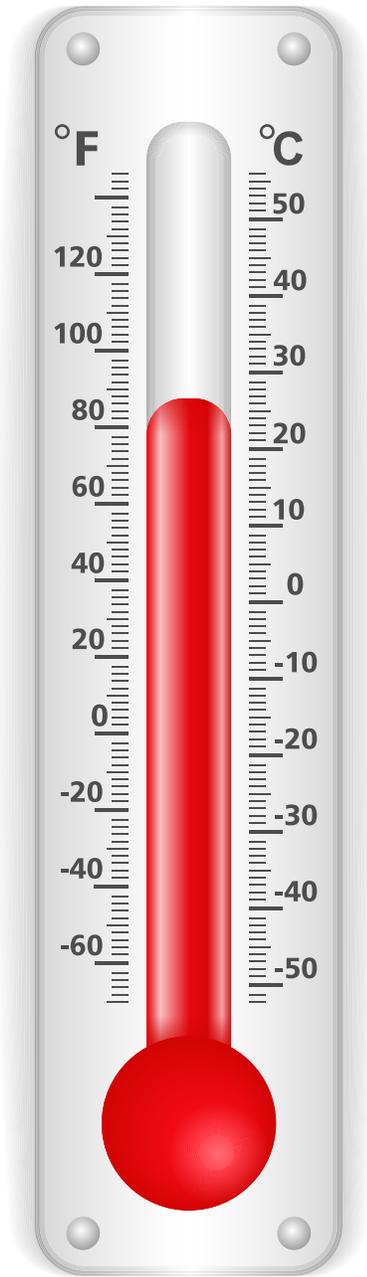
Name of Third Party

Third Party Address

City _____ State ____ Zip _____

This request will not be accepted without the third party's signature. The customer making the request understands that the utility assumes no liability for failure of third party to act upon notification.

Note: The Cold Weather Rule statute explained in this guide applies to municipal utilities and cooperative electric associations (216B.097). Certain provisions of the separate Cold Weather Rule statute that applies to investor-owned utilities (216B.098) are different, including those relating to IOU payment agreement installment amounts. Municipal and cooperative utilities may establish terms and conditions of payment agreements for the CWR period and arrears generally as well as for budget billing plans.





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