

Municipal Utilities Guide to Minnesota's Cold Weather Rule and other customer protection statutes

Includes law changes that became effective July 2021



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Cold Weather Rule; Cooperative or Municipal Utility

The following summarizes Minnesota Statutes §216B.097

Protection from shutoff

A municipal utility or a cooperative electric association (“utility”) must not disconnect, limit or interrupt and must reconnect the utility service of a residential customer during the period between October 1 and April 30 if the disconnection affects the primary heat source for the residential unit and the customer meets the eligibility criteria below.

Eligibility Criteria

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

- 1) Have a household income equal to or less than 50 percent of the state median household income. A customer is deemed to meet the income requirements if the customer receives any form of public assistance that uses an income eligibility threshold set at or below 50 percent of the state median household income.¹ The utility may:
 - a. Obtain verification of income from the local energy assistance provider (likely a Community Action Partnership, or “CAP” agency), or
 - b. Require income verification information from the customer on forms provided by the utility and compare it to the current state median household income figure available on the website for the Minnesota Department of Commerce, Division of Energy Resources.
- 2) Enter into and make reasonably timely payments under a payment agreement that considers the financial resources of the household.²

Utility Duties

- 1) Between August 15 and October 1 each year, all utilities must notify all residential customers of the Cold Weather Rule provisions.
- 2) 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.

¹ Eligibility for the federal Low Income Heating Energy Assistance Program (LIHEAP) administered under Minnesota’s Energy Assistance Program (EAP) is normally set at 50%, however, it is sometimes increased to 60%.

² Utilities should consider adopting a policy defining “reasonably timely” and what percentage of monthly income or other calculation represents a reasonable monthly payment amount as a basis for negotiating payment agreements. By statute, *investor-owned* utilities may accept, but not require, monthly payment of more than 10% of the monthly household income.

Customer Notification Before Disconnection

Before disconnecting service to a residential customer during the period between October 1 and April 30, a utility must provide the customer with the following items:

- 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 an inability to pay
- 5) A statement explaining available time payment plans and other opportunities to secure continued utility service.

Reporting the Number of Notices to the State

Once per month during the Cold Weather Rule period, each utility must report the number of disconnection notices it has given (not actual disconnections – see below) to the Minnesota Department of Commerce and the local energy assistance provider through the Energy Assistance Program's "eHeat" account management system.

Disconnection Restrictions

If a residential customer is to be involuntarily disconnected between October 1 and April 30, the disconnection may not occur under the following circumstances:

- 1) On a Friday, unless that day the customer declines to enter into a payment agreement offered by the utility via personal contact or 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

Disconnection must not occur until at least 30 days after the disconnection notice (described above) has been mailed to the customer or 15 days after the notice has been personally delivered.

Non-Responsive Customer

A customer must not be disconnected until the utility attempts to confirm whether the residential unit is actually occupied, which the utility may accomplish in one of the following ways:

- 1) Visiting the residential unit
- 2) Examining energy usage data obtained through advanced metering infrastructure to determine whether there is energy usage over at least a 24-hour period that indicates occupancy

Customer Appeals

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

Reporting the Number of Actual Disconnections to the State

Upon request from a city or the Minnesota Department of Commerce on October 1 and November 1 of each year, a utility must provide a list of the addresses of properties currently disconnected and the dates of disconnection.

Upon request from a city or the Minnesota Department of Commerce between October 1 and April 30, a utility must provide daily reports of the addresses and dates of any newly disconnected properties.

Medically Necessary Equipment

The following summarizes Minnesota Statutes §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
- 5) 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 who 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.

Disconnection in Extreme Heat

The following summarizes Minnesota Statutes §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

Other Residential Customer Protections

The following summarizes noted provisions of Minnesota Statutes §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. Subd. 2.

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. Subd. 3.

Terms and Conditions. Municipal and cooperative utilities may establish terms and conditions for budget billing plans and payment agreements as described above. Subd. 1.

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. Subd. 4.

Frequently Asked Questions

Do customers have to be current in their overall bill payments on October 1 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 1 if they meet the eligibility conditions.

What if a customer enters into a payment plan but fails to make payments?

A customer forfeits the protection of the Cold Weather Rule against disconnection if they fail to make reasonably timely payments on a payment agreement.

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. The Cold Weather Rule for *investor-owned* utilities (§216B.096) 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. The Cold Weather Rule for *investor-owned* utilities (§216B.096) 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, utilities must send notice of Cold Weather Rule protections to all residential customers annually between August 15 and October 1.

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 appeal 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 have to check the property status if a customer does not respond to a disconnection notice?

A 2021 law change states a utility must "attempt to confirm" (rather than "investigate"), in person or through remote meter indications, whether a residential unit is occupied before disconnecting. It also removes the requirement – at that point - of informing the occupant again, if one is present, of the provisions of the Cold Weather Rule. So, it is unclear what the purpose remains for checking on unit occupancy. The Legislature may need to review this change.

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 for insulin or nebulizers medications.

Is a medical certification valid indefinitely?

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