

## LEGISLATIVE BILL 143

Approved by the Governor April 20, 1979

Introduced by Simon, 31

AN ACT relating to public utilities; to provide procedures for discontinuance of service for certain subscribers; to provide for notice and hearings; to amend section 18-416, Reissue Revised Statutes of Nebraska, 1943; to provide for severability; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 18-416, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-416. No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past due account unless the utility company shall first give written notice as provided in section 3 of this act by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days prior to termination after notice is sent or given. Holidays and weekends shall be excluded from the seven days. As to any subscriber who has previously been identified as a welfare recipient to the company by the county welfare department, such notice shall be by certified mail and notice of such proposed termination shall be given to the county welfare department.

Sec. 2. As used in this act, unless the context otherwise requires, domestic subscriber shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, or businesses of any nature.

Sec. 3. The notice required by section 18-416 shall contain the following information:

(1) The reason for the proposed disconnection;

(2) A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the

bill:

(3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

(4) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;

(5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

(6) A statement that the utility may not disconnect service pending the conclusion of the conference;

(7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty days from such filing. Only one postponement of disconnection shall be allowed under this subdivision for each incidence of nonpayment of any due account;

(8) The cost that will be borne by the domestic subscriber for restoration of service;

(9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;

(10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(11) Any additional information not inconsistent with this section which has received prior approval from the board of directors or administrative board of any utility.

Sec. 4. Each utility subject to this act shall establish a third-party notice procedure for the



notification of a designated third party of any proposed discontinuance of service, and shall advise its subscribers, including new subscribers, of the availability of such procedures.

Sec. 5. A domestic subscriber may request a conference in regard to any dispute over a proposed discontinuance of service before an employee designated by the utility to hear such matters.

Sec. 6. The employee designated by the utility shall hear and decide all matters disputed by domestic subscribers pursuant to this act. The subjects to be heard shall include matters relating to a disputed bill.

Sec. 7. A domestic subscriber may dispute the proposed discontinuance of water, natural gas, or electricity by notifying the utility with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the utility may discontinue service.

Sec. 8. Upon notice to the employee designated by the utility of any request for a conference by a domestic subscriber, the employee shall:

(1) Notify the domestic subscriber, in writing, of the time, place, and date scheduled for the conference; and

(2) Hold a conference within fourteen days of the receipt of the domestic subscriber's request. Such conference shall be informal and not governed by the Nebraska Rules of Evidence. If the employee determines at the conference that the domestic subscriber did not receive proper notice or was denied any other right afforded under this act, the employee shall recess and continue the conference at such time as the subscriber has been afforded his or her rights. Failure of a domestic subscriber to attend a scheduled conference shall relieve the utility of any further action prior to the discontinuance of service. If a domestic subscriber shall contact the utility prior to the scheduled conference and demonstrate that failure to attend was for a legitimate reason, the utility shall make a reasonable effort to reschedule the conference.

Sec. 9. The employee of the utility shall, based solely on the evidence presented at the conference, affirm, reverse, or modify any utility's decision which involves a disputed bill which results in a threatened termination of utility service. The employee shall allow

termination of utility service only as a measure of last resort after the utility shall have exhausted all other remedies less drastic than termination.

Sec. 10. Any domestic subscriber may appeal an adverse decision of the utility employee to a management office designated by the utility or to the utility board when designated by the utility. Each utility shall establish a hearing procedure to resolve utility bills appealed by domestic subscribers. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. Such appeal shall be filed with the management office or utility board within the time specified in the procedures established by the utility.

Sec. 11. Nothing in this act shall prohibit any utility from providing such additional stages of appeal as it may deem appropriate.

Sec. 12. At any hearing held pursuant to section 10 of this act the domestic subscriber may:

(1) Be represented by legal counsel or other representative or spokesperson;

(2) Examine and copy, not less than three business days prior to such hearing, the utility's file and records pertaining to all matters directly relevant to the dispute or utilized in any way by the utility in reaching the decision to propose termination or to take other action which is the subject of the hearing;

(3) Present witnesses and offer evidence;

(4) Confront and cross-examine such other witnesses as may appear and testify at the hearing; and

(5) Make or have made a record of the proceedings at his or her own expense.

Sec. 13. In any appeal filed pursuant to section 10 of this act, the management office designated by the utility shall notify the domestic subscriber of the time, place, and date scheduled for such hearing. The notice requirements, hearing procedures, and other rights of domestic subscribers shall be set forth in the procedures established under sections 10 to 12 of this act.

Sec. 14. This act shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or



maintenance or to protect the health or safety of the domestic subscriber or of the general public.

Sec. 15. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 16. No municipal utility owned and operated by a village furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any due account unless such utility shall first give written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination. As to any subscriber who has previously been identified as a welfare recipient to the utility by the county welfare department, such notice shall be by certified mail and notice of such proposed termination shall be given to the county welfare department.

Sec. 17. Prior to the discontinuance of service to any domestic subscriber by a municipal utility owned and operated by a village, the domestic subscriber, upon request, shall be provided a conference with the board of trustees of the village. A municipal utility owned and operated by a village shall not be subject to sections 5 to 13 of this act, but the board of trustees shall establish a procedure to resolve utility bills when a conference is requested by a domestic subscriber. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. The board of trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

Sec. 18. That original section 18-416, Reissue Revised Statutes of Nebraska, 1943, is repealed.