

2013 SENATE INDUSTRY, BUSINESS, AND LABOR

SB 2174

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

SB 2174

January 22, 2013

Job Number 17496

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the requirement that a public utility regulated by the public service commission provide advance notification of disconnection or termination of electricity or gas services.

Minutes:

Testimonies Attached

Chairman Klein: Called the meeting to order.

Senator Wardner: Introduced the bill.

Todd D. Kranda, Attorney for Kelsch Law Firm: Written Testimony Attached (1). He is representing the North Dakota Manufactured Housing Association. Todd handed out written testimony for Scott and Nikki Webb of Twin City Estates and Wildwood MHP (2).

Senator Sinner: Asked if was feasible to require a notification in a rental contract.

Todd: Said it wouldn't be for the utility because they are not part of the arrangement, we only contract with the tenant. The utility has no obligation to us unless we are a customer.

Senator Sinner: Said he was thinking in terms of lenders, lenders may want to be that third party as well.

Todd: Said that they have not identified who that third party is, so the lender bank could be that designated third party.

Senator Sinner: Said as he understands that the bill only designates a third party at the request of the customer. There is no requirement that a third party be designated, correct?

Todd: Said yes, it would have to be the customer who has the privacy with the utility, as their customer, to be able to disclose that. The concern that they have, as expressed by the utility, is privacy. So a bank would have to have them sign a release of information to the third party, the bank.

Senator Sinner: Said that is why he asked about having that as part of the rental contract, could that be required in a rental contract?

Todd: Said yes, but it still doesn't obligate the utility. That's why they need this law to protect everyone involved.

Rocky Gordon, Lobbyist for the North Dakota Apartment Association: In support of the bill but wants to ask for one change. In the apartment business what is common is signing a Continuous Service Agreement with the utility, which says if the utility or gas is going to be shut off to put it in our name and the reason they do that is to protect the property. They would ask in addition to the authorization for disclosure, it would also say; or landlord on the Continuous Service Agreement. If that was in place they would also receive notification. He said if the bill is put in their name they don't think it is unreasonable that they would be notified. It would allow them to protect their property and it also alerts them to something being amiss. They use to routinely receive a copy of the notice that goes to the tenant so they were aware the billing was going to be placed in their name.

Chairman Klein: Asked if they could turn off the electricity this time of year.

Rocky: Said they can and do.

Senator Laffen: Asked if as an owner he could have the Continuous Service Agreement with the utility.

Rocky: Said you fill out a form with the utility and it lists you as the owner and a unit number. It basically says if you receive notification to turn this off, don't turn it off, we will be responsible for the billing. They have this with all their apartment buildings.

Senator Laffen: Said if every landlord had that agreement, would we need this change?

Rocky: Said yes, because they don't get notification. They would like to know when a bill gets placed in their name. They don't know until the bill comes.

Senator Laffen: Said the issue of freezing up at unit would be taken care of because they would switch that to the landlord and continuous heat would be applied.

Rocky: Said that is correct.

Kent French, North Dakota Manufactured Housing Association: Said he is in support of the bill. They were informed last summer by Montana Dakota Utility that they would no longer receive notice when they have to disconnect within their communities. He went on to talk about the manufactured home communities and the situations that occur there. He handed out written testimony from various property owners and also a paper on the manufactured home water connector (3).

Discussion continued about how they try to help the tenants get the money to pay their utility bill.

Will Simpfenderfer, Zins Incorporated: He leases out 109 manufactured homes and also do business as; Frontier Homesteads Manufactured Homes Community, where they lease out

spaces to people who own their homes in Mandan. He is in support of the bill. He gave a handout on MDU Resources Group, Incorporated (4). He talked about his support of the bill. (32:52)

Larry Gullickson, Represents North Dakota Manufactured Housing Association: In support of the bill. He is representing Oakland Properties and also owns his own rental properties. He agrees with what has already been said. He was asked several questions that he answered about MDU and people he helps out. (43:45)

Ted Bratten, North Park Incorporated: He owns a three hundred unit manufactured housing community in western North Dakota. He is in support of the bill. He explained his feelings on the bill. He was asked and answered several questions. (50:36)

Chairman Klein: Said they would switch gears and go to opposition of the bill.

Shane Goettle, Attorney representing Montana Dakota Utility: He handles their state government affairs. He gave an overview of the issues. He said that MDU changed their practices for three reasons; Privacy concerns, Business reasons and there are Legal reasons, especially when the landlord becomes a debt collector on behalf of MDU. He also said that MDU already provides a Continuous Service Agreement. (56:26)

Mike J. Gardner, Executive Vice President of Utility Operations and Support: Written Testimony (4). (58:23)

Chairman Klein: Asked what they did before this bill, if they made contact with the landlords.

Mike: Said they were in some cases making verbal contact. He said it was an inconsistent practice and varied by location and property owner.

Chairman Klein: Said inconsistent but being done?

Mike: Said Yes.

Chairman Klein: Said that they were accomplishing what the landlords wanted them to do and bringing down the number of disconnects. Something was being done right.

Mike: Said that it was through the efforts of the utility primarily, they are the ones working with their customers and are best suited to work with their customers.

Questions and answers continued about MDU's concerns and those of the landlords. (1:04)

Tamie Aberle, Director of Regulatory Affairs with Montana Dakota Utilities: Said that she would answer a couple of the questions. With regard to the number of customers in North Dakota, MDU serves approximately one hundred and thirty five thousand. For that time period that was referenced they issued about ninety four thousand disconnect notices and approximately twenty three hundred customers were ultimately disconnected. She

discussed what MDU is doing in regards to disconnect notices in the other states they serve and questions were asked and answered.

Dan Kuntz, Associate General Counsel for MDU Resources Group: Said he was involved in drafting the Continuous Service Agreement and he wanted to address a couple of the issues. The privacy issue in terms of a legal standpoint, there isn't anything that would prohibit or act as an impediment for the legislature to pass the bill to require the notice. The reason for the privacy concern is that MDU is very protective of their customer information. They always ask for a subpoena before providing any information. They do not give out customer information to a third party unless a customer requests it. He went on to explain their policies and what the bill would change as far as the number of notices that would need to be sent out. (1:23:15)

Senator Laffen: Said the Continuous Service Agreement seemed to be a viable answer for this, landlords, and properties but is a little nervous about that being the right tool for the mobile homes. The owner of the mobile home park may only have equity in the small infrastructure down below and he is being asked to have an agreement that would cause him to pay the heating bill for the whole unit.

Dan: Said that was the reason for the concern about wanting an automatic notice if it's transferred to their account because they didn't want to go thirty days to find out it had flipped over and then suddenly they are paying someone's heating bill for a month. That is why they have developed the electronic notification system so that they would get notified that it was transferred to their name.

Questions were asked about privacy laws and debt collection and debt collection.

Chairman Klein: Suggested that Dan Kuntz and Todd D. Kranda get together to come up with something that would work. He closed the hearing

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2174
January 28, 2013
Job Number 17788

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the requirement that a public utility regulated by the public service commission provide advance notification of disconnection or termination of electricity or gas service

Minutes:

Amendment Attached

Chairman Klein: Opened the hearing. Asked Todd D. Kranda to come up and if this new amendment was a good thing.

Todd D. Kranda, Attorney for Kelsch Law Firm: Said he talked with Dan Kuntz, Associate General Counsel for MDU Resource Group; and they worked it out over the weekend. He said Shane Goettle, Attorney representing MDU; shared it with Chairman Klein this morning. He went over the changes made. (1:16)

Chairman Klein: Asked if this was a hoghouse amendment.

Todd: Said he doesn't think this is. The amendment he handed out had two subparagraphs.

Chairman Klein: Handed out the amendment. Attachment (1)

Todd: Said it is a semi hoghouse of the bill but they saved a lot of it. He continued going over the changes. (2:43)

Senator Andrist: Said it does a good job of taking care of the manufactured homes people but wanted to know about taking care of the banker and doesn't think this fixes that.

Todd: Said it is any third party, so we still have to have a notification that is provided. If you look at paragraph two on the amendment, the second sentence; the customer shall designate the third party on a form provided by or approved by the public utility. The third party could be the banker or the landlord, could be the owner.

Senator Andrist: Said it wouldn't necessarily be both.

Todd: Said it could be both. You could have duplication or two forms. He didn't see any problem with that. The form will be available on the website so it is available to whoever would need it.

Chairman Klein: Said after they get the amendment ready that they will show it to him before it goes to the floor.

Senator Laffen: Commented that the limited liability was new to this.

Todd: Said yes, the last sentence on subparagraph two. (6:16)

Chairman Klein: Said he did speak to the MDU folks and they are on board. He said he would get the form in styled and then he will bring it back. Closed the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2174
January 29, 2013
Job Number 17916

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Discussion and Vote

Minutes:

Amendment

Shane Goettle, Attorney for MDU: Said that Todd D. Kranda was not able to make it, but wanted him to confirm that all of the parties that they heard from were in agreement with MDU primarily and the folks that Todd was representing. We are very comfortable with the language as is; MDU can build its system to put any field in for the landlords. MDU believes that the shortened notice period from the previous bill cut out a lot of the extraneous notices, which they were concerned about. They would ask that they would adopt these amendments and then they would support the passage of 2174.

Discussion followed; (1:31)

Senator Unruh motioned for the adoption of the amendment.

Senator Sinner seconded the motion.

Roll Call Vote: Yes - 7 No - 0

Senator Unruh motioned for a do pass as amended.

Senator Sinner seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent: 0

Floor Assignment: Senator Unruh

January 28, 2013

VR
1/29/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2174

Page 1, line 3, replace "disconnection or termination" with "discontinuance"

Page 1, replace lines 8 through 12 with:

"Notification before discontinuance of utility service."

1. A public utility shall provide notice to a customer of the utility's intention to discontinue utility service for payment delinquency in accordance with commission rules.
2. A public utility shall provide notice to a third party designated by a customer of the utility's intention to discontinue electric or natural gas service to the customer for payment delinquency. The customer shall designate the third party on a form provided by or approved by the public utility. The public utility may elect to provide notice to a designated third party by mail or electronic means. Notice by mail must be made not less than five days before discontinuance and notice by electronic means must be made not less than three days before discontinuance. A public utility is immune from civil liability for failing to provide notice or providing incorrect notice to a third party of its intention to discontinue utility service to a customer."

Renumber accordingly

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2174**

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8204.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Unruh Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2174**

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8204.01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Unruh Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Unruh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2174: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2174 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "disconnection or termination" with "discontinuance"

Page 1, replace lines 8 through 12 with:

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Renumber accordingly

2013 HOUSE POLITICAL SUBDIVISIONS

SB 2174

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2174
March 7, 2013
Job # 19585

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the requirement that a public utility regulated by the public service commission provide advance notification of discontinuance of electric or gas service.

Minutes:

Testimony #1

Chairman N. Johnson: opened the hearing on SB 2174.

Todd D. Kranda, Kelsh Law Firm: (See testimony #1) 01:00 - 4:06

Rep. Koppelman: The bill allows the consumer to request an advanced notice or designate someone else to receive the advanced notice, but that seems to put the burden on the consumer to do that. It doesn't seem to give the landlord an absolute right to have that information. Have you thought about that? Why would we not do that?

Todd Kranda: The concern came up with providing the consumer information by a company. There are some privacy and confidentiality concerns so the way it was drafted was to allow protections to the company that is disclosing information because it does have to come through the consumer because you are disclosing that the consumer cannot financially meet their obligations. So that consumer who could be our tenant if I am the landlord or owner would be asked for potentially as part of the lease agreement to designate that owner or landlord as the party to receive notice. We are comfortable that we would be able to work with our tenants and customers to get those things.

Rep. Koppelman: I understand the privacy concerns but you are dealing with property that is owned by one individual or entity and potentially rented by someone else. If we are dealing with services; if it is cable television, as a landlord you may not have the right to know or care, but most of the things regulated by the PFC are more vital services. For example in North Dakota in the dead of winter the electricity is shut off a pipes break and the property is damaged as a result of that the owner of the property it seems to me would have a right to know.

Todd Kranda: I am not sure the law would allow you to disclose. The bill came about due to a change in policy by a company that was servicing the area, MDU. We worked this out with them in the Senate. This bill does talk about the heat and winter freeze up and the

damage that can be caused. This gives the protection that we need to have notice in advance to adequately protect our property or get the tenant or consumer to make arrangements to get assistance to pay their bill or assist in continuing the service in some other manner.

Rep. Koppelman: I am not sure it gives you an absolute right as I read the bill. It says if the consumer decides to name you with the utility as someone to whom information can be disclosed that you will be notified. If you are the owner and you have a property and financial interest what if the tenant says I don't want my landlord to know if he is going to be cut off.

Todd Kranda: The company we are dealing with in this instance has a separate agreement; a continuous service agreement. They were in the past providing them to the landlords of the property and that wasn't consistent with all their business entities across different states and they were trying to become more uniform and they created a policy and developed a continuous service agreement and offered that instead. The continuous service agreement could be signed up by an owner or landlord and it provides for continuous, but the bill then to be triggered over to the landlord or owner for those unpaid services beyond the termination date normally if we agree to that. I am not certain we can force a company to say without the permission and protections; I don't want to get into the fight of privacy rights; I think was a fix that takes care of my client interests and the manufactured housing association and other similar entities that would be affected just as them.

Rep. Koppelman: I understand that and if we have one companies concerns addressed, but the laws we make govern all tenants and all landlords and all property owners etc. What would be wrong with something in law? We would not have to disclose information about the whys and wherefores and amounts of money or whatever if you just say unless we hear from you by such and such a date service to this property will be discontinued for reasons we aren't devolving right now. So the owner could protect the property. I am not advocating someone have information that someone else might not want them to have, but I do think they should have information to protect their property.

Todd Kranda: The law puts into effect something that is not protecting us now. Now we are not protected at all. This law allows protections to be put in place. It goes through the proper channels of the consumer to designate a third party. You are talking about a completely different concept that just give the right to an owner to say utility provide it to me. That puts that utility in a difficult spot I think. That was the discussion I had with the utilities legal counsel so what we came up with is similar with other states have similar concepts which there is a designation. We think it protects more than just the two companies that I have identified; it protects everyone. I think it is adequate and reasonable and I think if you have a relationship with your tenant you should be able to have that discussion with the tenant to exercise some type of documentation necessary to implement this notice.

Rep. Hatlestad: As the owner of a manufactured home that I am going to rent out can I have an agreement with MDU that continued service agreement; can I put that into effect

so I am guaranteed that service will not be cut off even though I am going to rent it to somebody else?

Todd Kranda: I think you can either have the service in your own name and you paying the bill and maybe you just tack it on as additional portion of the rent so you are automatically the customer for the utility. If you don't then the tenant would have to be the customer to pay that utility. Yes I think the continuous service agreement at least through the company we are dealing with they do offer that so that is available through MDU. Then they are protected too.

Rep. Hatlestad: If I do that with you does that automatically notifying the renter then that such an agreement is in effect?

Todd Kranda: I think that it is a contractual agreement with you and the utility. I am not sure I would want the renter to know that I would pick up the tab.

Rep. Hatlestad: Could I as a landlord mandate in the lease agreement that name the third party?

Todd Kranda: I think I would add that requirement with my lease so that I am protected.

Rep. Klemin: I think this could apply to landlords with multiunit housing and lenders if they wanted to know whether their borrower is delinquent on payments because if a lender has to foreclose on a manufactured home or house or whatever it is I am sure they would prefer to get it with pipes and water header that are not frozen. Can they also be designed as a secured party?

Todd Kranda: Good point. It does not say that it is a landlord or owner. In the Senate IBL committee we had a banker Senator Sinner and that is exactly the question he asked. We don't designate who that third party is. Banks already have that kind of notice if there is no insurance on the house. This is a board protection to all of those categories that you just identified.

Rep. Klemin: So there could be several third party designations. Can they have several different third parties designated then?

Todd Kranda: I don't think we have limited it. MDU went through a reorganization of their computer process so they are going to reprogram in these notices and either trigger a letter within 5 days or an email or electronic notification within 3 days. I think it would be an easy program.

Rep. Klemin: What if they don't do it? What is the penalty?

Todd Kranda: There is not a penalty. That would be something we could address if there is a continued mistake and not being done. I feel comfortable with the discussions I have had with the company that they are going forward with that.

Rep. Kathy Hogan: In the original bill there was a 10 day advanced notice and in the new bill there is only a 3 or 5 day and I am a bit concerned about that because somebody might be gone for a long weekend.

Todd Kranda: The 10 days initiated was for the consumer. When we listened to the testimony there was some testimony about how many consumers received those 10 day notices and how many were actually disconnected. Once they receive that termination notice it is a high percentage of response. So giving them those 5 extra days because they respond and pay would limit the number of notices that the designated party would get because most of them end of paying. Most procedures, I think, will be by electronic mail and that is instant. We did not have a concern with that.

Rep. Kathy Hogan: So there is a first notice you get and most people respond and pay their bill. It is really the second notice that is the 5 day notice?

Todd Kranda: Not necessarily. There is that first notice that goes to the tenant and then typically the customer will pay. If that happens the landowner doesn't need a notice. If they haven't paid after that notice is mailed to the customer then 5 days before the actual termination we will get a notice. So there isn't two notices sent to the customer necessarily, there could be two notices sent out. We are trying to eliminate the second notice if we don't need it since the customer already paid within a 5 or 7 day window.

Rep. M. Klein: What about the rural electrics? Do they have this system?

Todd Kranda: I don't know if it was testified to specifically. I know there was some reference made that a lot of the utilities even those that are not regulated by PFC are providing the notice.

Rep. Klemin: Just to clarify the timing of this notice; the commission requires a 10 day notice to the customer. That doesn't appear to be changed by this bill. They would not be sending out a notice to both parties at the same time?

Todd Kranda: No I do not believe so. Lines 8 & 9 they do now. We are adding paragraph 2 lines 10-18 which adds a duty and that is the duty of the 5 day 3 day notice to the designation third party and it allows the designation so that is the only change.

Rep. Klemin: Why did we change it from 10 days to 5 days or 3 days?

Todd Kranda: When the notice goes out to the consumer the consumer writes the check and it's paid. If that happens the landlord doesn't need to know it. If it doesn't get paid then our 5 day or 3 day notice comes to us and we can respond.

Rep. Klemin: Is there a 10 day notice and then another 5 days after that for the third party to pay?

Todd Kranda: It doesn't extend the 10 day notice. They are all the same still.

Rep. Koppelman: The original bill specifically talked about utilities regulated by PFC. The current bill doesn't mention the commission other than in the title so I know that is the section of law that deals with them, but I was looking at the definition of a public utility and I am wondering could this be things like city water service or garbage; is that considered a public utility?

Todd Kranda: Chapter 49-04 is duties of public utilities. If you look in sub paragraph 2 talks about electric and natural gas service so that is the focus again.

Shane Goettle, MDU Resources: MDU Resources is pleased to have worked this out with the landlords that brought this issue forward. This issue came about because MDU changed some of its practice. In some cases it was giving landlords advanced notice; and in other cases it wasn't so there was a disparate practice going on in the territory that it serves. They now have come up with a continuous service agreement with MDU. That wasn't sufficient for the client that Mr. Kranda represents and they came forward with this bill. MDU has a very strong privacy policy. They don't give out information about their customers without the customers consent and in no case without a court order. The person who is in the best position to decide if the data is sensitive and should be distributed to a customer is the customer himself. We also have some issues with property issues where landlords want to protect their property. So to satisfy both of those concerns; and to protect the customer's privacy we encourage the continuous service agreement. We stand in support of this bill now today since it now strikes the right balance between privacy and protection of property.

Rep. Koppelman: My concern is that if we are not careful how we word this legislation the person with the most to lose could be a little mom and pop that goes south they may or may not get mail within 3 days or electronic means to be notified. Is there is not a way we could just say that the owner of the property needs to be informed. Is there a way to care for that person as responsible legislators?

Shane Goettle: Landlords as property owners should take actions to protect that property themselves. We can't look to the government to do that for us. It is important that somebody who is leasing property to have an agreement with their tenant to have some neighbors keeping an eye on things and they can take steps to approach the utility if they wish to enter into a continuous service agreement to protect themselves. Now we are adding in this additional tool that if MDU in this case is leasing property and the landlord will get a notice of discontinuance; I think that is sufficient.

Rep. Hatlestad: I have a question with this Continuous Service Agreement do you make all your landlords aware that such a thing exists? Is there a charge for that agreement?

Dan Kuntz, MDU Resources: The intent is to let as many landlords know about it as possible and there is not a charge for it.

Claus Lempke, ND Assoc. of Realtors : We think this is a good bill and we support it.

Rocky Gordon, ND Apartment Association: We are in support of this bill. I listened to the questions and we have talked a lot about this continuous service agreement.

My company and most of the members have them in place. Does this bill address that? If it doesn't could it be made to do so?

Rep. M. Klein: When you take over the utility bill either your renter has left or he hasn't paid his bill. Isn't that the case?

Rocky Gordon: Yes, but we would like to know they left.

Rep. Koppelman: I don't think the bill does do that. Dealing with these situations do you know that all the apartments have these kinds of agreements?

Rocky Gordon: In the major markets I think they do. I don't know about smaller utilities.

Dan Kuntz: This bill deals with pre disconnection notice. This bill does not address the continuous service agreement at all. We agreed we would develop a notification system manually now and once we are convinced that we have that in place we will have to go back and program that in. We have committed to providing that notice. It is not in the bill.

Rep. Koppelman: What is the view of your company in who the consumer is? What is their contractual obligation in terms of what triggers who as a utility providing service considers your consumer? Is that accurate?

Dan Knutz: The customer is whoever signed up with service with us.

Rep. Koppelman: Most utilities view or service providers of all types and it is owned by someone they have had a long standing relationship with them; is that how you view it or is it a revolving door every time someone calls you?

Dan Kuntz: I think that is how this bill came about. Before we drafted the continuous service agreement some of our districts who knew who the landlords were in certain buildings etc. found out a tenant was going to be disconnected and it was going to be cold they would try to get ahold of the landlord and say hey you do know we are disconnecting service to that particular property. We discontinued that practice when we started the continuous service agreement because it wasn't very efficient and we don't know all the landlords and we weren't on a consistent basis and we realized we were violating our own customer privacy policies.

Rep. Koppelman: Discussed two scenarios using Rep. Hogan and Hanson.

Dan Kuntz: The difference in the bill requires that Rep. Hanson had signed the authorization letting us give notice to Rep. Hogan. So if Rep. Hanson doesn't want his landlord knowing about this or whoever they don't sign the authorization form so the customer is the one who is giving us the authority to notify that third party that that service is in danger of being disconnected.

Rep. Koppelman: If the same scenarios happened now the continuous service agreement would still violate that privacy arguably because the only reason it would switch over would be that there was a bill not paid.

Dan Kuntz: Not necessarily. Rep. Hanson calls us up this morning and says I am leaving shut my gas off. He is our customer and he doesn't necessarily tell his landlord he is leaving. In that case this bill will not help that scenario. The only way for Rep. Hogan to protect himself in that situation to have signed a continuous service agreement.

Rep. Klemin: We have a lot of other utilities in the state so this would also apply to them. Do you know what is happening there?

Dan Kuntz: I have not heard anyone complain and they did not have a problem with the amended bill.

Rep. Klemin: What if we added another subsection here if you have a continuous service agreement the public utility shall notify that third party that bill was going to be switched over under that agreement. That is something you said you were going to do anyway.

Dan Kuntz; I don't know what their practices are?

Rep. Klemin: This is in regard to public utilities I don't get my electricity from MDU what about coops?

Dan Kuntz: No it does not cover them.

Rep. Beadle: Isn't this whole continuation agreement addressed by the landlord tenant agreement and addressed in the lease.

Dan Kuntz: Yes I think that is where it will be.

Rep. Beadle: So the best protection for a landlord to ensure that they are not going to have the pipes shut off on their rental property is going to be for them when they are drafting a lease with their tenant to come to them with these sorts of agreements and tell them the power is not getting shut off here in the contract.

Dan Kuntz: Yes it is a continuous service agreement. The only way if you are a landlord to protect yourself to have signed the continuous service agreement.

Rep. Klemin: So what happens with the coops? Do you have continuous service agreements too?

Rocky Gordon: I am not sure? On apartments we are talking about electricity; not gas so the heat probably isn't going to be shut off which is the bigger concern of ours.

Opposition: None

Neutral:

Harlow Fuglesten, ND Association of Rural Electric Cooperatives: We are not regulated by the Public Service Commission. Our boards of directors act as a public

service commission and we deal with these issues and develop policies on disconnections. We have 16 different cooperatives so they all have different policies but I do know our coops are served around urban areas and they have more landlord tenant issues addressed and they follow policies similar that are laid down by the Public Service commission, but they may have other arrangements as well. They are accurately aware of the concerns that landlords have. I have discussed this with a couple of them and they are aware of this legislation. I don't think we are having a problem.

Rep. Klemin: We could amend another part of the law here and make this apply to coops.

Harlow Fuglesten: We take very serious our obligation as our board of directors do as representatives of the customers to do the right thing for the customers and they are open to consider these policies. We don't think there have been any complaints so we think that is really unnecessary.

Hearing closed.

Do Pass Motion Made by Rep. Beadle: Seconded by Rep. M. Klein:

Rep. Klemin: This notice issue only covers public utilities that are regulated by the PFC and we have 16 RECs did not know of any problems, but again maybe he is not in a position to know whether they have any problems like this or not. If the public facility is going to be required to give notice to a third party why shouldn't that same requirement apply to an REC? It is an exact same issue here.

Rep. J. Kelsh: They are regulated by a board that is elected by the members they serve and I think if they don't do a lot of the same things that this bill would require they would be in a lot of trouble and I have never heard of anyone saying those nasty rural electrics need to be put under the same conditions as the people under the PFC because they have annual meetings where people can express their concerns. There was no one hearing saying they were having a problem with them.

Rep. M. Klein: Most of the cities or new areas are served by the coops and you would think they should come up with the same standards.

Rep. Koppelman: I will support the motion. I do have concerns where we are hearing two parties; a special interest in the rental rural and one utility and we are hearing their policies and their privacy policy and their policy with continuous service agreements etc. which may or may not translate around the state to all the population we represent so I am uncomfortable with the way the bill is written in protecting folks the way we should.

Rep. Hatlestad: What about the continuous service agreement that MDU says they are going to implement. Do we need to put anything in the bill?

Rep. Klemin: There is immunity if they don't give this notice and it was acknowledged they are working on a way to do that which may or may not be in affect this fall when the next heating season starts. I don't like immunity.

Chairman N. Johnson: We had a representative from the Public Service Commission setting out there and there was no indication that they had a problem with it.

Vote: **14** **Yes** **0** **No** **1** **Absent** **Carrier: Rep. Muscha:**

Closed.

Date: 3-7-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2174

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Beadle Seconded By Rep. M. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	—				
Rep. Nathan Toman	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Muscha

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2174, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2174 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2174

**TESTIMONY IN SUPPORT OF
SENATE BILL NO. 2174**

**SENATE INDUSTRY BUSINESS & LABOR COMMITTEE
JANUARY 22, 2013**

Good morning Chairman Klein and members of the Senate Industry Business & Labor Committee, for the record my name is Todd D. Kranda. I am an attorney at the Kelsch Law Firm in Mandan and I am representing the North Dakota Manufactured Housing Association in support of SB 2174.

SB 2174 is being presented to you in order to clarify that customers of a Public Service Commission regulated electric or gas utility are entitled to receive at least ten days advance written notice before disconnection or termination of service may occur. In addition, there is a provision included within SB 2174 that allows for the customer to authorize the disclosure and notification by the gas or electric utility to a designated third party, such as a landlord or owner of the subject property, before the disconnection or termination of service occurs.

Currently, the Public Service Commission, in the North Dakota Administrative Code, has provisions for ten day advance notice to customers before termination of service; as well as an advance notice to the tenant before service is disconnected if the landlord or owner of the property is delinquent. See copies of Sections 69-09-01-18.1 (gas service) & 69-09-02-05.1 (electric service) of the ND Administrative Code attached.

SB 2174 clarifies that the customer is entitled to advance notice and that the customer may designate that a third party, such as the landlord or owner, may be notified in advance before service is disconnected or terminated.

Members of North Dakota Manufactured Housing Association as well as others who are effected by the lack of advance notice before termination of gas or electric service are here to testify in support of the advance notice requirements in SB 2174 with specific examples of the reason that SB 2174 is necessary and appropriate. I will end my formal testimony at this point and stand for any questions and simply conclude with a request that you give a favorable **Do Pass** recommendation to SB 2174.

ARTICLE 69-09

PUBLIC UTILITY DIVISION

Chapter	
69-09-01	Standards of Service - Gas
69-09-02	Standards of Service - Electric
69-09-03	Gas Pipeline Safety
69-09-04	Uniform Sign Standards - Railroad
69-09-05	Standards of Service - Telephone
69-09-05.1	Accounting Practices
69-09-06	Prohibition on Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting [Repealed]
69-09-07	Small Power Production and Cogeneration
69-09-08	Renewable Electricity and Recycled Energy Tracking System
69-09-09	Wind Turbine Decommissioning

CHAPTER 69-09-01 STANDARDS OF SERVICE - GAS

Section	
69-09-01-01	Definitions
69-09-01-02	Heating Value
69-09-01-03	Calorimeter Equipment
69-09-01-04	Purity of Gas
69-09-01-05	Pressure of Gas
69-09-01-06	Pressure Recording Equipment and Records
69-09-01-07	Definition of a Cubic Foot of Gas
69-09-01-08	Testing Facilities
69-09-01-09	Meter Prover
69-09-01-10	Location of Meters
69-09-01-11	Service Meters Required
69-09-01-12	Prepayment Meters
69-09-01-13	Gas Meter Accuracy Requirements
69-09-01-14	Periodic Tests
69-09-01-15	Requests and Referee Tests
69-09-01-16	Meter Test Records
69-09-01-17	Deposits and Guarantees
69-09-01-18	Discontinuance of Service [Superseded]
69-09-01-18.1	Discontinuance of Gas Service
69-09-01-19	Extensions of Service
69-09-01-20	Information to Customers
69-09-01-21	Billing Basis
69-09-01-22	Meter Readings on Bills
69-09-01-23	Adjustment of Bills for Meter Error
69-09-01-24	Refunds
69-09-01-25	Resale
69-09-01-26	Filing of Rates
69-09-01-27	Rate Applications

which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

History: Amended effective April 1, 1985.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-18. Discontinuance of service. Superseded by section 69-09-01-18.1.

69-09-01-18.1. Discontinuance of gas service.

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
 - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility

1

- The postcard shall include the following questions:

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of

1

actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.

4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the customer is utilizing gas before the energy has passed through a meter installed by the utility.
9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental

facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.

10. A utility may not discontinue service to a customer for nonpayment of a deposit.

History: Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-19. Extensions of service.

1. The utility shall make all extensions to its mains and services where the investment is justified by the anticipated revenue to be received.
2. In the event the utility does not believe that the extension is justified, the commission shall, when so requested by one or more prospective customers desiring such extension and upon proper hearing, determine whether or not such extension should be made, and shall determine the respective amounts that the prospective customer or customers and the utility shall pay.
3. When so requested by a prospective customer engaged in the operation of a licensed trailer court for month-to-month parking of mobile homes, the utility shall make extension to its mains and services, subject to the provisions of subsections 1 and 2, to provide natural gas service through a master meter installed in a location within the confines of the mobile trailer court. The trailer court operator shall have service facilities to individual trailer parking locations which the operator shall own and maintain constructed by competent and qualified persons, and shall arrange for inspection by and approval from a responsible inspector to assure that the service facilities from the meter location to the mobile home locations and gas service facilities and appliances to and within mobile homes to be served comply with piping and appliance ordinances or requirements of applicable rules and regulations of any authority vested with jurisdiction of the subject matter.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-20. Information to customers. A utility shall:

1. Keep copies of its rate schedules, rules, and regulations on file in every office where payments are received.

CHAPTER 69-09-02
STANDARDS OF SERVICE - ELECTRIC

Section	
69-09-02-01	Rates and Regulations to be Filed
69-09-02-02	Information Available to Customers [Superseded]
69-09-02-02.1	Information to Customers
69-09-02-03	Service Connections
69-09-02-04	Deposits and Guarantees
69-09-02-05	Discontinuance of Service [Superseded]
69-09-02-05.1	Discontinuance of Electric Service
69-09-02-06	Continuity of Service
69-09-02-07	Extension of Service
69-09-02-08	Temporary Service
69-09-02-09	Customer Complaints
69-09-02-10	Meter Readings
69-09-02-11	Billing
69-09-02-12	Adjustment of Bill for Meter Errors
69-09-02-13	Refunds and Deficiency Billings
69-09-02-14	Classification of Service
69-09-02-15	Resale and Submetering
69-09-02-16	Measuring Customer Service
69-09-02-17	Standard Frequency
69-09-02-18	Standard Voltage and Allowable Variation
69-09-02-19	Voltage Measurement and Voltage Records
69-09-02-20	Accuracy of Portable Indicating Instruments
69-09-02-21	Accuracy of Watt-Hour Meters
69-09-02-22	Accuracy of Demand Meters
69-09-02-23	Multipliers and Test Constants
69-09-02-24	Instrument Transformers
69-09-02-25	Meter Testing Equipment
69-09-02-26	Meter Testing
69-09-02-27	Determination of Average Meter Error
69-09-02-28	Meter Records
69-09-02-29	Location of Meters
69-09-02-30	Public Interest
69-09-02-31	Cooperation
69-09-02-32	Advance Notice
69-09-02-33	Principle of Least Cost
69-09-02-34	Location of Lines
69-09-02-35	Installation and Maintenance - Conformance to National Electrical Safety Code
69-09-02-36	Raising and Lowering Electric Supply and Communication Lines
69-09-02-37	Electric Master Metering Prohibited - Exception
69-09-02-38	Advertising by Electric Utilities
69-09-02-39	Automatic Adjustment Clauses

the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

History: Amended effective April 1, 1985.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-05. Discontinuance of service. Superseded by section 69-09-02-05.1.

69-09-02-05.1. Discontinuance of electric service.

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
 - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including, but not limited to, the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory

installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	—	—
2. Do you have any emergency medical problem in your household?	—	—
3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect?	—	—
4. Do you desire that some other third party be contacted in the event of a disconnect? If so, name and address of person _____	—	—
5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem.		
Utility Telephone Number _____		
Office Address _____		

Date _____ Name _____
Address _____
Signature _____

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.
4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute, and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the

customer is utilizing electricity before the energy has passed through a meter installed by the utility.

9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.
10. A utility may not discontinue service to a customer for nonpayment of a deposit.

History: Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-06. Continuity of service.

1. Each utility shall make every reasonable effort to prevent interruptions of service, and when such interruptions occur shall endeavor to reestablish service within the shortest possible time. Whenever the service is necessarily interrupted or curtailed for the purpose of working on equipment, it shall be done at a time which, if at all practicable, will cause the least inconvenience to customers, except in cases of emergency.
2. Each utility shall keep a record of all interruptions to service affecting the entire distribution system of any single community or an important division of a community, and include in the record the date and time of interruption, the date and time service was restored, and, if known, the cause of each interruption. Service interruption records shall be kept for a period of six years.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-07. Extension of service.

1. It shall be the obligation of each utility to make reasonable extensions of its lines and services to new customers within any area in which it is authorized to serve.

**Twin City Estates & Wildwood MHP
3001 Twin City Drive
Mandan ND 58554
701-663-7066**

January 18th, 2013

To whom it may concern:

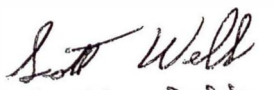
MDU was always great at notifying us with a phone call about residents that were having their gas or electricity shut off, whether or not we owned the home or the resident owned the home. With that information, we were able to contact the owners of the homes and point them in the right directions to get help getting their bill paid, such as Social Services, Community Action, and AID Inc. With that information, residents were able to prevent any major damage to their homes, such as freeze ups and pipes breaking, and we were able to prevent any pipes breaking in the ground in either of our parks. About 90% of the time, residents qualified for these services and were able to keep their utilities on.

In June of 2012, we had one of the parks homes completely shut off from service without any notice, and with winter coming in a couple of months, we contacted MDU to find out why we were not notified. A representative from MDU said they no longer contact the owner, just the person renting it. The same situation happened again in October of 2012.

Now that the winter months are here, I have 2 homes located in Wildwood MHP that had their utilities shut off and we were not notified. In both homes the pipes froze and broke leaving very extensive damage. The owners of the home have abandoned them now leaving us to follow our procedures by removing the homes and absorbing the costs to do so. Including the costs to fix anything that may be broken with our pipes in the ground.

In July of 2012, we received a continuous service agreement from MDU. We filled it out and sent it back in. Later in the fall we received another agreement that we filled out as well. Since then, we have not received any notifications from MDU for any homes that have had a change in their services, including our own homes.

Park Managers,
Scott & Nikki Webb


Nikki Webb.

Woodford Thermaline® Freezeless Manufactured Home Water Connector

The Thermaline is a compact unit specially designed to provide water service to manufactured homes but is a freezeless sanitary tight line is needed, such as waterers for livestock.

When not in use, a wheel handle at surface level shuts off water below the frost line and water above the frost removed completely with forced air or suction pump.

Specifications:

Head
Brass casting with 3/4" N.P.T. outlet.

Cover
Pressure molded polypropylene rigid structural foam.

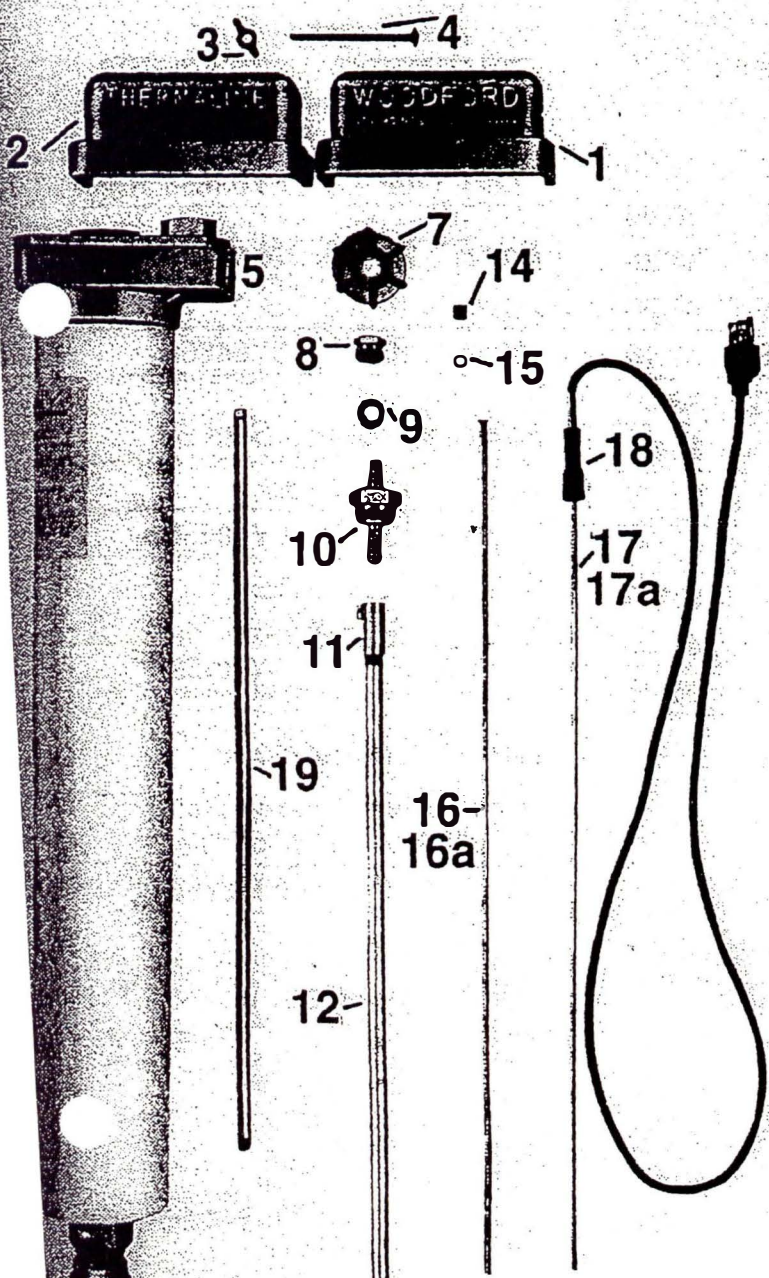
Heater
15 watt (110-120V) portable insert heater with grounded metal alloy sheath and 3 prong standard plug.

Riser Pipe
1" galvanized steel pipe. Optional 3/4" brass pipe

Operating Pipe
Molded polyurethane foam.

Valve
Permanent type brass with large hemispheric surface. 3/4" N.P.T. inlet

* Manufactured before July
** Manufactured after July 2
*** Required for update replacement
Assy (85063) is manufactured



Thermaline® Parts List

Part #	Item	Mfg #	Description
1253.1003	1	80055	Cover, Woodford
1253.1004	2	80056	Cover, Thermaline
1253.1023	5	80057	Thermaline Head Casting Brass
1253.1008*	7	80013	Cast Brass Head
1253.1028**	7	80014	Cast Brass Head
1253.1009*	8	80005	Thermaline Packing
1253.1031**	8	80017	Thermaline Packing
1253.1010*	9	80008	Thermaline Packing
1253.1034**	9	30247	Thermaline Packing
1253.1037**	10	85064	Thermaline Head Nut
1253.1025***	7-11	RK-THERM.102	RK-THERM
	13-15	UPDATE KIT	Repair Kit
1253.1012	11	80066	Thermaline Yoke Nut
1253.1013A			6' Thermaline Operating
1253.1013B			7' Thermaline Operating
1253.1014	13	85015	Comb. Valve Assy
1253.1015	14	80062	Heater Well Thumb
1253.1016	15	80063	Heater Well Washer
1253.1017	16	85002	Heater Well Assembly w/80063, 2' long
1253.1018	16A	85001	Heater Well Assembly w/80063, 1' long
1253.1019	17	85062	Heater Assembly w/80061, 2' long
1253.1020	17A	85061	Heater Assembly

THE ATKINSON COMPANY

January 21, 2013

To: Senate Industry, Business and Labor Committee

Re: Senate Bill 2174

Our company manages Tatley Meadows Mobile Home Park in Bismarck. This park consists of 362 homes which are owned by the occupants as the park does not have rental units. The occupants rent the land site from the park which rental includes a variety of services. One of the services provided is that Tatley Meadows owns the water system throughout the entire park, and provides the water to each of the occupants. The cost of the water and the maintenance of the general system is the responsibility of Tatley Meadows.

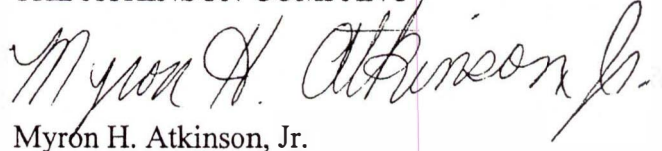
Each individual homeowner has a heating system which uses electricity to protect the individual water connection from freezing up. If the electric service fails there is a strong possibility that the water connection will freeze up during winter weather, damaging both the connection to the homeowner and also some part of the total system. This could affect the service to other homeowners, and has in the past when the problem has occurred. It also can result in thousands of dollars of expenses for the repair of the frozen pipes, particularly when the repair work needs to take place in severe winter weather.

If Tatley Meadows was notified in advance of a proposed disconnection of electric service it would take prompt action to see the disconnection did not take place. This would save both the homeowner and Tatley Meadows from the possibility of large costs for pipe repair. In the past Tatley Meadows received courtesy calls from the utility company but these have been discontinued.

Senate Bill 2174 seeks to address this problem, giving protection to both the resident and the landlord. It does appear to be impractical to think that authorization for disclosure can be obtained from every resident, whether in a mobile home park or apartments. We think it would be more realistic to provide that notice must be given where there is a continuous service agreement in effect between the utility company and the landlord.

Thank you for your consideration of our comments.

THE ATKINSON COMPANY


Myron H. Atkinson, Jr.

My name is Vince Sanders, General Manager for VCZ, Inc. I have held this position managing 3 mobile home parks (380 sites) for over 20 years. We have 90 plus rentals that VCZ owns, and we use to have a landlord agreement plan on each of them.

Late summer or early fall we received a letter from MDU asking for us to sign a *new* 'Continuous Service Agreement'. This one meant that if someone failed to pay it would automatically go into VCZ's name and the only notice we would get would be on the next billing cycle.

For years VCZ has always had close contact with MDU collections dept and have never, in my 20+ yrs have had MDU ever shut off a tenant's utilities while being on the 'Original Landlord Agreement Plan'. They were never disconnected without notifying us first. VCZ has always helped make contact and encouraged tenant with letters to get in and pay bill, if they needed help-where to go to apply for fuel assistance, ect.. This always was beneficial for MDU and us as landlords. Why in the world would you change this now-it works.

We have not signed the new Landlord Service Agreement this year because it is not right, plain and simple. This is hurting everyone and not accomplishing a thing.

On 11/09/2012, MDU shut off one of our rental units at 716 W Sweet Ave #13 at approx. 3:30 pm. If my maintenance man had not seen the truck there and notified me, it would have been left off and the home would have been froze up by evening and busted water pipes. We called MDU while the Service Tech was still there, but by the time we got through to a 'human' he was gone. We were then charged \$120.00 before the tech could return and turn the utilities back on. This is neither fair nor normal practice for the MDU Company that we once knew, had they called us regarding that home, it would have avoided any call outs and we would have had them put it in our name right away, like we have been doing for 20 plus years.

Vince Sanders-General Manager

VCZ, Inc.

Date: January 21st 2013

To: The North Dakota Industry, Business and Labor Committee

From: Van Raden Properties, Inc.
402 35th Avenue North
Fargo, ND 58102

We feel that it is imperative that utility companies notify the landlord prior to cutting off power to any property. The damages which may occur will cause undue hardship to property affected, other tenants on or in the property and excessive repair costs for the owner of such properties.

In a manufactured home park one home can be the cause of a water riser freeze up which may break and cause a river of water to flow down the street. The repair for broken water riser requires the use of a commercial backhoe, manpower and new parts. It also requires the shutdown of the water main which will affect everyone connected to that water main. In an apartment, duplex or condo community a water freeze up will require that the water to be shut down, plumbing repairs, ceiling and wall repair, carpet and vinyl damage and the disruption and sometimes loss of property of the other tenants affected by a water line freeze up.

MDU's argument that customer's information should be confidential has little merit. Landlords already have all of the information protected by the Safe Act. What we have here is a total disregard for tenants and property owners who do pay their utility bills.

As owners of property that affects many tenants we hope that the Industry, Business and Labor Committee will help all of the utility buyers of this state and protect them from the hardships that will be caused by a change in North Dakota Law.

Sincerely

Glenn Bender



849 South Main Street ~ Dickinson ND ~ 701.227.0579

Monday, January 21, 2013

Mr. Chairmen and Senate Committee

Our company owns and operates a 600-lot manufactured community in Dickinson, ND. We've been told that Montana Dakota Utilities will no longer notify community owners if they are going to turn utilities off until we receive the next bill. Some of our colleagues have expressed concerns about this issue and have asked for our support to Senate bill 2174 requiring that a public utility company provides advance notice of disconnection of electric and gas service.

We believe advance notice of disconnection would be beneficial therefore we ask for your support of Senate bill 2174.

Sincerely,

G. Avaro

January 20, 2013

Re: Bill 2174

Dear Members of the Senate Industrial Business and Labor Committee;

I urge you to support and encourage passage of Bill 2174 requesting and requiring that those public utilities regulated by the Public Service Commission provide a 10 Day Advance Written Notification of Intent to Disconnect or Terminate Electric or Gas Service.

In North Dakota where winters can be severe, a lack of heat can affect water pipes, water lines, structures, and even utility access points. I believe it would be wise, considerate and even preventative to have this as policy for public utilities. I believe it would be in the best interest of all parties for proper notification to be given in advance.

This should be sent to the customer *and* to the owner or manager when a third party is involved. As a landlord, I would be willing to pay a small fee to help defray the cost of a 10 Day Advance Notification.

Thanking you in advance for your consideration and support of this bill,

Herman Kesterke

3005 East Avenue E

Bismarck, ND 58501

My name is Daniel Berg and I reside at 2625 62nd St SE, Minot, North Dakota. I am a homeowner, property manager for a rental company, have rental properties of my own, and owner of the Gold Nugget Park in Minot. I also am a HUD Installation inspector for the State of North Dakota.

MDU has been very good in the past, but service has deteriorated greatly. I understand the complications of the flood in Minot and the economy, but it has affected us all.

I just went through a situation in the park (not mine) where no notification was given and the plumbing in the house was completely frozen up because of the gas being shut off (renter had left). It is being repaired at this moment and I do not know the extent of damages at this time. This not only affects the home but could ultimately freeze up the water going into the ground which in turn would affect the park (luckily it was caught in time).

All I am asking for as an owner/manager is a notification which would avert all these problems.

Thank You,

Dan Berg

NEIDERHARDT MOBILE HOME & RV PARK

Between Second and Third Street South
at Spruce Avenue, P.O. Box 211, New Salem, ND 58563-0211
on the OLD RED/OLD TEN SCENIC BYWAY

701-220-7710

Faye (Neidhardt) Sanders Owner/Manager
Est. 1964 by Paul and Ferne Neidhardt
January 22, 2013

Testimony in support of SENATE BILL No. 2174

Presented to the Senate Industry Business and Labor Committee

Re: Advance Notification by Public Utilities Regulated by the Public Service Commission.

I am the owner and landlord of the mobile home property described in the following example. On September 25, 2012 I happened to be driving past 209 South Third Street in New Salem, the home of a tenant, referred to as Mr. Tenant, when I observed an MDU company truck at that address. Mr. Tenant stopped me and informed me that MDU was disconnecting his service. Mr. Tenant has five children under the age of twelve years with his four year old son being a severe epileptic. His 34 year old wife also had a heart attack requiring three recitations while being transported to the hospital via ambulance. Stints were surgically placed to correct the blockage. They do not have medical insurance.

Mr. Tenant was unable to pay his utility bill that month because of medical expenses recently incurred on behalf of his wife and epileptic son including ambulance calls. He asked me to advance him money to keep his utilities on for their home which I did.

Subsequently, Mr. Tenant has reimbursed me for his MDU bill and continues to keep current on his MDU bill. Discontinuing their utilities during such critical times would have been detrimental to this family.

As the owner of the mobile home park I feel it is vital that MDU be able to inform me in advance of any discontinuance of service. Just think of what the consequences might have been if this had occurred in December rather than September such as frozen water lines which would have meant loss of service to all tenants, not just one home. Advance notification is vital.

Lack of customer service is unforgivable.

Faye Sanders
Owner/Manager

Patrick Wachter
PO Box 838
Bismarck ND 58502

January 21, 2013

To: The Senate and Industry Business & Labor:

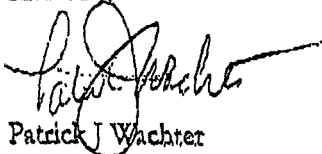
RE: No Notification by utility provider of service being cut-off. (gas and/or electric)

Winter: without any notice water pipes and risers freeze. We have no way of knowing that the service has been terminated until water is flooding out of the ground and/or running out the door of a home. This can be very costly, both in time and money to repair. To repair the damage or break the water has to be shut off for hours during the repair results in a hardship for other residents and danger because there is no water available for fire protection.

Summer: - in a past experience when the electricity was turned off in one of our apartments, a refrigerator was ruined due to the rotten food smell that could not be eliminated from the inside of the unit. The refrigerator had to be replaced.

To protect our property, we feel it is very important that the utility provider notifies us of a potential shut off.

Sincerely,



Patrick J Wachter

Owner of :

Airport Village Mobile Home Park
Mendow Ridge Apartments
Riverplace Apartments
Windsor Storage & Heated Shops

WOODRIDGE/EDGEVIEW ESTATES**1510 16th St SW #211****Minot, ND 58701****Phone (701) 838-0294****Fax (701) 839-3172**

1/21/2013

Dear Industry Business and Labor,

I have recently been made aware of Senate Bill 2174. It appears that if Bill 2174 should pass that utility companies could turn off an individual's utilities due to non-payment without notifying the owners/managers of the manufactured housing property.

This is neither a fair nor normal practice. If this bill for some reason should pass, we need to be notified at least 10 days in advance to eliminate damages to our properties. The damages that could potentially occur by turning off utilities to an individual manufactured home would not only cause severe repercussions to the home's owner, but also cause costly damage to the land owner's property.

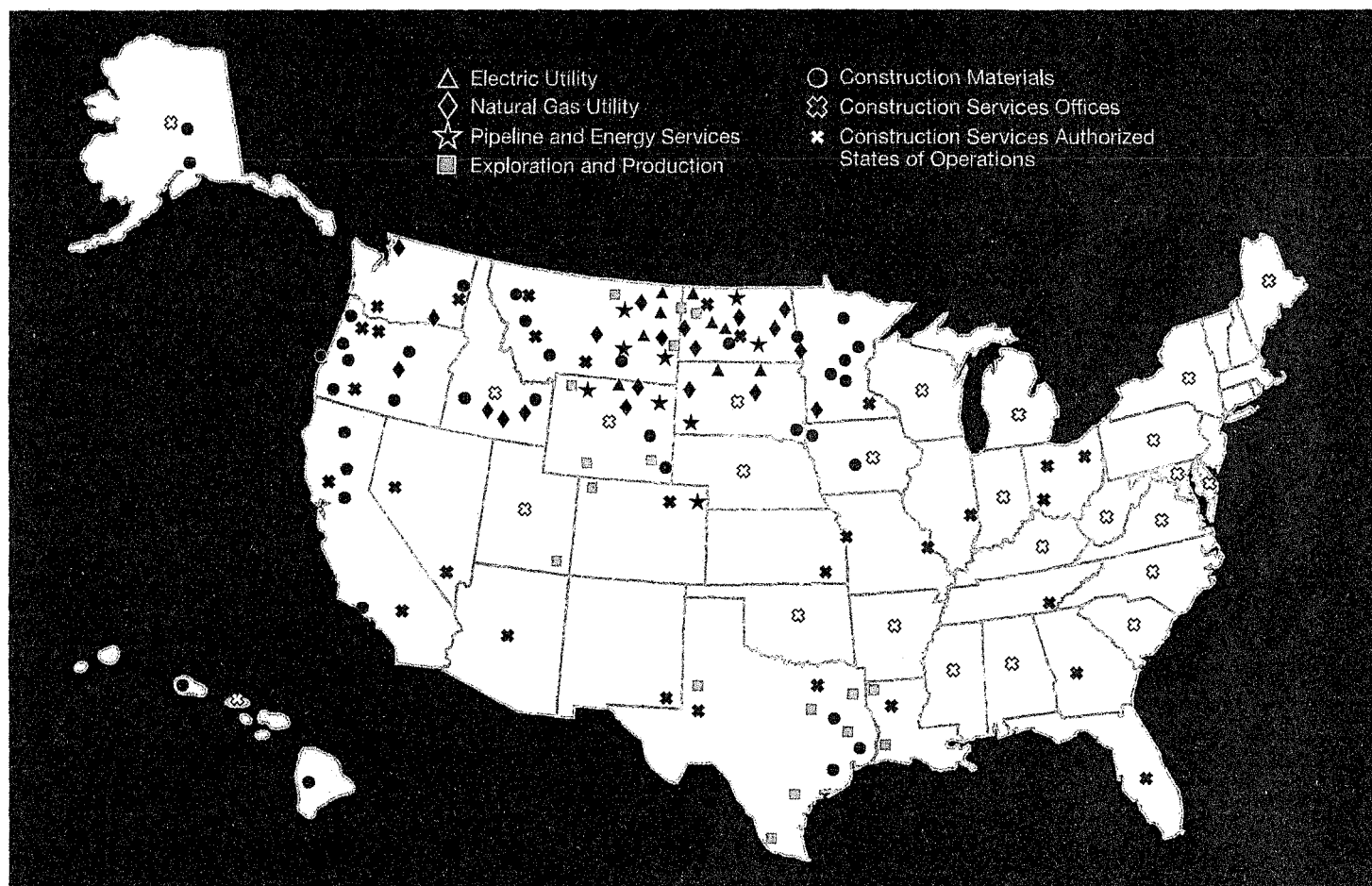
We have always had a very good relationship with the utility companies in our area in the past, and I would hate for that to change. I believe that if Bill 2174 were to pass that it would cause a strain on everyone that is involved.

Sincerely,

Susan Pederson

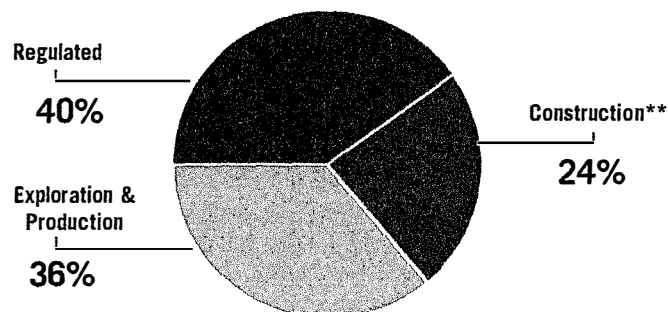
Manager
Woodridge/Edgeview Estates

MDU RESOURCES GROUP, INC.



We are a member of the S&P MidCap 400 index. We provide value-added natural resource products and related services that are essential to energy and transportation infrastructure, including regulated utilities and pipelines, exploration and production, and construction materials and services companies.

2011 Earnings*



* Based on consolidated earnings before discontinued operations.

** Includes Other operations of 3 percent.

Prepared by Michael J Gardner
For Montana-Dakota Utilities Co.

Testimony on SB 2174

SB 2174 would require Montana-Dakota and other regulated public utilities to provide ten days written notice to a third person designated by a customer prior to discontinuance of utility service to the customer. The bill is largely in response to Montana-Dakota's discontinuance about six months ago of an informal practice in some locations of giving such notice to landlords prior to discontinuance of service to the landlord's tenant. Montana-Dakota is opposed to SB 2174 for the same reasons it discontinued that practice.

Up until about six months ago, personnel from some of Montana-Dakota's collection offices provided (or attempted to provide) a personal contact to landlords or property managers prior to disconnecting utility service to a tenant of their property. Because of the time being spent on this practice and to avoid customer privacy concerns, Montana-Dakota discontinued this informal practice and instead updated, formalized and made available to landlords of rental properties the Continuous Service Agreement ("CSA") attached hereto as a way to prevent the potential property damage the prior informal practice was intended to address. Under the CSA, the landlord agrees that in the event of a discontinuance of utility service to a tenant of the landlord's property, and unless indicated otherwise by the landlord, utility service will be automatically transferred to the landlord's account to prevent disconnection of service and potential damage to the landlord's property. The CSA, like the prior practice, is offered as a courtesy to landlords without charge. Unlike the prior practice, the landlord does not receive advance notice of the discontinuance and some of the landlords were unhappy that they would no longer receive the advance notice.

It's important to note that regulated Public Utilities are already subject to rules administered by each state's Public Service Commission regarding when and how they can disconnect electric or natural gas service. For example, the rule governing discontinuance of electric service in North Dakota requires at least 10 days written notice (unless the customer is over 65 years of age or handicapped in which case the notice must be delivered in person) before disconnection and prohibits disconnection after noon, or on a Friday, weekend, holiday, or a day before a holiday. The rule also requires the utility to provide information on the customer's rights and remedies, amongst other provisions. A similar rule exists for natural gas disconnections. In addition to the state rules, Montana-Dakota also has internal policies

regarding turn offs. For example, we take weather conditions into consideration before disconnecting service in the winter months.

One of the reasons Montana-Dakota discontinued the practice of providing prior notice was the resources involved in attempting to contact the landlords prior to a disconnection. SB 2174 would make the situation even worse. Montana-Dakota sent out 181,883 disconnection notices in 2012, an average of over 15,000 per month system wide. In most instances the account is paid or a payment arrangement is reached and service is not disconnected. Last year the actual number of Montana-Dakota utility disconnections was 5,049 or only 2.8 percent of the number of disconnect notices. SB 2174 would require Montana-Dakota to send out similar ten day notices to the designated third parties. Not only is there significant expense for this service, but it will undoubtedly lead to calls to tenants from their landlords for accounts that would not have been disconnected because the tenant brings the account current prior to the disconnection date or enters into a reasonable payment arrangement for the amount in arrears.

Another reason that Montana-Dakota discontinued the practice of providing advance notice to landlords is a concern regarding customer privacy. Montana-Dakota generally does not release any information regarding a customer's records to a third party, including law enforcement agencies, without a subpoena. We realized that by providing notice to a landlord of an intended disconnection to a tenant, Montana-Dakota was essentially revealing that the customer was delinquent and violating its own practice of protecting customer account information. SB 2174 tries to address this privacy issue by providing that the customer must provide an authorization for disclosure. We have serious concerns whether these authorizations would be truly voluntarily. We also believe, consistent with a requirement of the Fair Debt Collection Act, that these authorizations should come directly from the customer and not through the landlord. The Fair Debt Collection Act (15 USC §1692c (b)) prohibits a debt collector from communicating with a person other than the consumer "without the prior **consent of the consumer given directly** to the debt collector". Although this provision does not apply to Montana-Dakota in collecting its own accounts, we believe it should be a requirement prior to giving notice to a landlord. If this requirement was adopted, however, we have concerns of how we would determine whether the authorization came directly from the customer or through the landlord. Other provisions of the Fair Debt Collection Act are applicable if a landlord attempts to collect money owed to Montana-Dakota in order to prevent a disconnection of service; in which case the landlord becomes a debt collector under the Act. The Fair Debt Collection Act provides a number of limitations and prohibitions

on what a debt collector can and cannot do in collecting someone else's debt. Even if Montana-Dakota is not liable for violations of the Act by someone else, it does not want landlords or anyone else collecting on its accounts using practices that could be a violation of the Act. If the customer is having trouble paying their utility bill, the customer is best served having a discussion with the utility, not with their landlord. The utility can offer more options regarding the account than the landlord can.

A utility's legal and contractual relationship is solely with the tenant as the utility's customer. To our knowledge, no tenant has requested that we offer this advance notice service. SB 2174 seeks to give landlords the rights of a customer without any corresponding responsibility for payment. Any requirement for advance notice of the tenant's failure to maintain utility service to the landlord's property should be imposed by the landlord upon the tenant and not upon the utility. Unless the landlord is willing to accept responsibility for payment of the account in the event of a delinquency, it does not have the rights of a customer under the account. Alternatively, the landlord can place utility service in the landlord's account to assure continuous service and recover the cost of utility service directly from the tenant.

Montana-Dakota is not unsympathetic to the landlords' concerns of property damage in the event of a discontinuance of utility service to rental properties. Montana-Dakota developed the CSA as an arrangement to prevent damage to such properties. Montana-Dakota also agreed to develop a notification system to provide prompt notification to the landlord electronically when service is transferred to the landlord's account under the CSA. Although Montana-Dakota recognizes that some landlords prefer the advance notice that was provided by certain of Montana-Dakota's offices previously, Montana-Dakota does not believe that a law requiring such notice is in the best interests of it or its customers.



P.O. Box 7608, Boise, ID 83707-1608
 Phone: (800)-638-3278 · Fax: (701) 323-3104
 Customer Service Hours: 7 AM – 7 PM (M– F)
www.montana-dakota.com

Thank you for your interest in Montana-Dakota Utilities Co. Continuous Service Program.

Enclosed you will find the following documents:

1. CONTINUOUS SERVICE AGREEMENT
2. SERVICE LOCATIONS – Exhibit A
3. CONTINUOUS SERVICE AGREEMENT AUTHORIZATION – Exhibit B

Please take the time to read the Agreement thoroughly. It is important that you understand and act in accordance with each section of the Agreement. After completing the required information on all of the applicable forms, sign each where indicated and mail all of the documents back to Montana-Dakota Utilities Co. in the envelope provided.

As soon as we receive the documents back from you, we will process your Agreement and return a copy to you for your records.

- Service must be activated prior to or on the date this Agreement becomes effective.
- The Agreement provides **12 month continuous service** to the Properties between tenants, regardless of the time of year. Seasonal Agreements will no longer be offered.
- Read Section 4 regarding disconnection carefully. You must select whether you **DO** or **DO NOT** request MDU to continue Energy Services if the tenant account at the property is discontinued for nonpayment.
- All additions or deletions to the Billing Information and Exhibit A must be in the form of a **written notice** signed by the Financially Responsible Party. If a manager or agent is authorized to act with respect to the Properties, please complete the Continuous Service Agreement Authorization (Exhibit B). All of the information can be scanned and sent by email to customerservice@mdu.com or faxed to us at 701-323-3104.
- The Agreement must be signed by the Financially Responsible Party for real properties described in Exhibit A. If property management services are used and the Property Manager signs the Agreement, the Property Manager assumes financial responsibility for Energy Services pursuant to the Agreement.

If you require additional information or have questions, please call our Customer Service Center at the number listed above.

Sincerely,

Customer Services



CONTINUOUS SERVICE AGREEMENT

Scan and return via:

- **E-mail:** customerservice@mdu.com
- **Fax:** 1-701-323-3104 or
- **Mail:** Montana-Dakota Utilities Co., Attn: Customer Support, PO Box 7608, Boise, ID 83707-1608

1. **RECITATION.** The Undersigned (hereinafter referred to as "Customer") is the Financially Responsible Party (i.e. owner, manager, or otherwise financially responsible for the maintenance of the real properties described on Exhibit A hereto (hereinafter referred to as "Properties") which may be occupied by others (hereinafter referred to as "Tenants") from time to time. **Montana-Dakota Utilities Co.** (hereinafter referred to as the "Utility") provides Natural Gas and/or Electric services (hereinafter referred to as "Energy Services") to the location of the Properties in accordance with the terms of tariffs filed with the state regulatory agency of the jurisdiction in which the Properties are located. The Agreement is intended to assure continuous Energy Services to the Properties during periods in which a Tenant has not arranged for or has failed to maintain energy services.
2. **TERM.** This Agreement between the Utility and the Customer is effective as of the date (hereinafter referred to as the "Effective Date") that it is processed by the Utility. For electronic communication purposes, the Customer must provide an active e-mail address prior to processing. Utility will provide e-mail notification that the Agreement has been processed. This Agreement will continue in effect until cancelled by either party upon five (5) days prior written notice sent in accordance with Paragraph 5 below. Properties subject to this Agreement must have energy services activated prior to or on the Effective Date. Termination of this Agreement does not relieve the Customer from its obligation to pay for any Energy Service charges incurred under this Agreement prior to the effective date of termination. In the event the Customer cancels this Agreement with respect to one or more Properties listed on Exhibit A, the Customer will not be eligible to enter another Continuous Service Agreement for a period of 12 months with respect to those Properties that were cancelled. Failure on the part of the Customer to pay their bills promptly when due shall constitute sufficient grounds for termination of this Agreement by the Utility.
3. **RESPONSIBILITY.** The Utility agrees to provide Energy Services at the Properties specified by the Customer between occupancy by tenants, regardless of the time of year, until this Agreement is terminated with respect to the properties. The Customer assumes liability for Energy Service charges incurred during periods in which a Tenant has not assumed responsibility for payment of Energy Services to the Properties.

The Utility reserves the right to deny service or disconnect Energy Services pursuant to the rules and regulations of the applicable regulatory agency. If a Tenant is denied Energy Service, or Energy Services to the Tenant have been disconnected, the Customer may request that the Energy Services to the applicable Property be disconnected without affecting this Agreement. A disconnection of Energy Services to the Properties at the request of the Customer for any other reason will terminate the Agreement.

In the event of a dispute regarding any sums due, the date of discontinuance, or the effective date of Energy Services, the Utility's records will be presumed correct unless the Customer presents information showing the Utility's records are incorrect in which event the presumption shall no longer apply.
4. **DISCONNECTION.** In addition to the above terms of service, if a Tenant account at such a Property is discontinued for **Nonpayment of Services**, ☐ I DO ☐ I DO NOT request the Utility to continue Energy Services at the Property and bill me for such Energy Services until a new Tenant account is opened or I request termination of the Agreement with respect to the Property. These instructions will apply even if the Tenant remains in the Property.
5. **CHANGES AND DELETIONS.** The Customer agrees to provide **PRIOR WRITTEN NOTICE** to the Utility of any changes in telephone number, mailing address, e-mail address or additions and deletions to Exhibit A, Service Property Locations.
By signing this Agreement as the Customer, it is understood that the Customer is authorized to start or stop Energy Services, make additions or deletions of Properties to this Agreement and to enter into this Agreement. Other persons authorized to act on behalf of the Customer under this Agreement are shown on Exhibit B which may be amended by Customer upon receipt of written notice by the Utility.
6. **MISCELLANEOUS.** This Agreement constitutes the entire Agreement between the parties and supersedes all prior Agreements and understandings relating to continuation of Energy Services to any of Customer's properties prior to the effective date of this Agreement. The Utility has no further responsibility or liability to the Customer, expressed or implied, for continuation of Energy Services to Customer's properties except as set forth herein.
7. **LIABILITY LIMITATION.** THE LIABILITY OF THE UTILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES OF CUSTOMER NOT TO EXCEED \$500 AND NEITHER PARTY SHALL BE RESPONSIBLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR ANY COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFIT). THIS LIMITATION APPLIES TO ALL CLAIMS WHETHER BASED ON BREACH OF EXPRESS OR IMPLIED WARRANTY, INDEMNITY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER LEGAL THEORY.
8. **SIGNATURE.** This Agreement must be signed by the Customer. If property management services are used and a Property Manager signs this Agreement, the Property Manager assumes financial responsibility for Energy Services pursuant to this Agreement.

BILLING INFORMATION

(* An asterisk indicates that the information is required for processing.)

Please Print

E-mail Address: _____ (Enter an active e-mail address for electronic communication purposes)	*Social Security Number: _____
	*Business Tax ID Number: _____
Spouse/Partner Name: _____	*Emergency Contact Name: _____
*Billing Address: _____	*Address: _____
*City: _____ *State: _____ *Zip: _____	*City: _____ *State: _____ *Zip: _____
*Primary Contact Phone: (____) _____-_____	*Emergency Phone Number: (____) _____-_____
Cell Phone: (____) _____-_____	Employer Name: _____
Fax Number: (____) _____-_____	Work Phone: (____) _____-_____
Customer Printed Name: _____	
Signature: _____	Date: _____

FOR OFFICE USE ONLY

CSA ID #: _____ Processed By: _____ Date: _____



In the Community to Serve®

EXHIBIT A SERVICE LOCATIONS

Scan and return via:

- **E-mail:** customerservice@mdu.com

- **Fax:** 1-701-323-3104 or

- **Mail:** Montana-Dakota Utilities Co., Attn: Customer Support, PO Box 7608, Boise, ID 83707-1608

IDENTIFICATION NUMBER (OFFICE USE ONLY)	COMPLETE STREET ADDRESS	APT. NO.	CITY, STATE
1.			
2.			
3.			
4.			
5.			
6.			
7.			
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18.			
19.			
20.			

Customer Printed Name: _____

Signature: _____

Date: _____

FOR OFFICE USE ONLY

CSA ID #: _____ Processed By: _____ Date: _____

PROPOSED AMENDMENTS TO SENATE BILL NO. 2174

Page 1, line 3, replace “disconnection or termination” with “discontinuance”

Page 1, replace lines 8 through 12 with:

“Notification before discontinuance of utility service.

1. A public utility shall provide notice to a customer of the utility’s intention to discontinue utility service for payment delinquency in accordance with commission rules.
2. A public utility shall provide notice to a third party designated by a customer of the utility’s intention to discontinue electric or natural gas service to the customer for payment delinquency. The customer shall designate the third party on a form provided by or approved by the public utility. The public utility may elect to provide notice to a designated third party by mail or electronic means. Notice by mail shall be made not less than five days prior to discontinuance and notice by electronic means shall be made not less than three days prior to discontinuance. A public utility shall be immune from civil liability for failing to provide notice or providing incorrect notice to a third party of its intent to discontinue utility service to a customer.”

Renumber accordingly

1

**TESTIMONY IN SUPPORT OF
ENGROSSED SENATE BILL NO. 2174**

**HOUSE POLITICAL SUBDIVISIONS COMMITTEE
MARCH 7, 2013**

Good afternoon Chairperson Nancy Johnson and members of the House Political Subdivisions Committee, for the record my name is Todd D. Kranda. I am an attorney at the Kelsch Law Firm in Mandan and I am representing the North Dakota Manufactured Housing Association in support of Engrossed SB 2174.

Engrossed SB 2174 is being presented to you in order to clarify that customers of a Public Service Commission regulated electric or gas utility are entitled to receive advance written notice before disconnection or termination of utility service may occur. In addition, there is a provision included within Engrossed SB 2174 that allows for the customer to designate and authorize the disclosure and notification by the gas or electric utility to a third party, such as a landlord or owner of the subject property, before the disconnection or termination of service occurs.

Currently, the Public Service Commission, in the North Dakota Administrative Code, has provisions for ten day advance notice to customers before termination of service; as well as an advance notice to the tenant before service is disconnected if the landlord or owner of the property is delinquent. See copies of Sections 69-09-01-18.1 (gas service) & 69-09-02-05.1 (electric service) of the ND Administrative Code attached.

Engrossed SB 2174 clarifies that the customer is entitled to advance notice and that the customer may designate that a third party, such as the landlord or owner, may be notified in advance before service is disconnected or terminated.

Members of North Dakota Manufactured Housing Association as well as others who are effected by the lack of advance notice before termination of gas or electric service testified in the Senate committee hearing. Following the Senate hearing an amendment was worked out and agreed to by the interested parties which was included within Engrossed SB 2174 when it passed the Senate by a vote of 45 to 0.

I am here on behalf of those individuals to express support for the advance notice requirements that are now included within Engrossed SB 2174. I will end my formal testimony at this point and stand for any questions and simply conclude with a request that you give a favorable **Do Pass** recommendation to Engrossed SB 2174.

ARTICLE 69-09

PUBLIC UTILITY DIVISION

Chapter	
69-09-01	Standards of Service - Gas
69-09-02	Standards of Service - Electric
69-09-03	Gas Pipeline Safety
69-09-04	Uniform Sign Standards - Railroad
69-09-05	Standards of Service - Telephone
69-09-05.1	Accounting Practices
69-09-06	Prohibition on Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting [Repealed]
69-09-07	Small Power Production and Cogeneration
69-09-08	Renewable Electricity and Recycled Energy Tracking System
69-09-09	Wind Turbine Decommissioning

CHAPTER 69-09-01 STANDARDS OF SERVICE - GAS

Section	
69-09-01-01	Definitions
69-09-01-02	Heating Value
69-09-01-03	Calorimeter Equipment
69-09-01-04	Purity of Gas
69-09-01-05	Pressure of Gas
69-09-01-06	Pressure Recording Equipment and Records
69-09-01-07	Definition of a Cubic Foot of Gas
69-09-01-08	Testing Facilities
69-09-01-09	Meter Prover
69-09-01-10	Location of Meters
69-09-01-11	Service Meters Required
69-09-01-12	Prepayment Meters
69-09-01-13	Gas Meter Accuracy Requirements
69-09-01-14	Periodic Tests
69-09-01-15	Requests and Referee Tests
69-09-01-16	Meter Test Records
69-09-01-17	Deposits and Guarantees
69-09-01-18	Discontinuance of Service [Superseded]
69-09-01-18.1	Discontinuance of Gas Service
69-09-01-19	Extensions of Service
69-09-01-20	Information to Customers
69-09-01-21	Billing Basis
69-09-01-22	Meter Readings on Bills
69-09-01-23	Adjustment of Bills for Meter Error
69-09-01-24	Refunds
69-09-01-25	Resale
69-09-01-26	Filing of Rates
69-09-01-27	Rate Applications

which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

History: Amended effective April 1, 1985.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-18. Discontinuance of service. Superseded by section 69-09-01-18.1.

69-09-01-18.1. Discontinuance of gas service.

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
 - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility

may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	—	—
2. Do you have any emergency medical problem in your household?	—	—
3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect?	—	—
4. Do you desire that some other third party be contacted in the event of a disconnect? If so, name and address of person _____	—	—
5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem. Utility Telephone Number _____ Office Address _____		
Date _____	Name _____	
	Address _____	
	Signature _____	

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of

actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.

4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the customer is utilizing gas before the energy has passed through a meter installed by the utility.
9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental

facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.

10. A utility may not discontinue service to a customer for nonpayment of a deposit.

History: Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-19. Extensions of service.

1. The utility shall make all extensions to its mains and services where the investment is justified by the anticipated revenue to be received.
2. In the event the utility does not believe that the extension is justified, the commission shall, when so requested by one or more prospective customers desiring such extension and upon proper hearing, determine whether or not such extension should be made, and shall determine the respective amounts that the prospective customer or customers and the utility shall pay.
3. When so requested by a prospective customer engaged in the operation of a licensed trailer court for month-to-month parking of mobile homes, the utility shall make extension to its mains and services, subject to the provisions of subsections 1 and 2, to provide natural gas service through a master meter installed in a location within the confines of the mobile trailer court. The trailer court operator shall have service facilities to individual trailer parking locations which the operator shall own and maintain constructed by competent and qualified persons, and shall arrange for inspection by and approval from a responsible inspector to assure that the service facilities from the meter location to the mobile home locations and gas service facilities and appliances to and within mobile homes to be served comply with piping and appliance ordinances or requirements of applicable rules and regulations of any authority vested with jurisdiction of the subject matter.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-20. Information to customers. A utility shall:

1. Keep copies of its rate schedules, rules, and regulations on file in every office where payments are received.

CHAPTER 69-09-02
STANDARDS OF SERVICE - ELECTRIC

Section	
69-09-02-01	Rates and Regulations to be Filed
69-09-02-02	Information Available to Customers [Superseded]
69-09-02-02.1	Information to Customers
69-09-02-03	Service Connections
69-09-02-04	Deposits and Guarantees
69-09-02-05	Discontinuance of Service [Superseded]
69-09-02-05.1	Discontinuance of Electric Service
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69-09-02-09	Customer Complaints
69-09-02-10	Meter Readings
69-09-02-11	Billing
69-09-02-12	Adjustment of Bill for Meter Errors
69-09-02-13	Refunds and Deficiency Billings
69-09-02-14	Classification of Service
69-09-02-15	Resale and Submetering
69-09-02-16	Measuring Customer Service
69-09-02-17	Standard Frequency
69-09-02-18	Standard Voltage and Allowable Variation
69-09-02-19	Voltage Measurement and Voltage Records
69-09-02-20	Accuracy of Portable Indicating Instruments
69-09-02-21	Accuracy of Watt-Hour Meters
69-09-02-22	Accuracy of Demand Meters
69-09-02-23	Multipliers and Test Constants
69-09-02-24	Instrument Transformers
69-09-02-25	Meter Testing Equipment
69-09-02-26	Meter Testing
69-09-02-27	Determination of Average Meter Error
69-09-02-28	Meter Records
69-09-02-29	Location of Meters
69-09-02-30	Public Interest
69-09-02-31	Cooperation
69-09-02-32	Advance Notice
69-09-02-33	Principle of Least Cost
69-09-02-34	Location of Lines
69-09-02-35	Installation and Maintenance - Conformance to National Electrical Safety Code
69-09-02-36	Raising and Lowering Electric Supply and Communication Lines
69-09-02-37	Electric Master Metering Prohibited - Exception
69-09-02-38	Advertising by Electric Utilities
69-09-02-39	Automatic Adjustment Clauses

the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

History: Amended effective April 1, 1985.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-05. Discontinuance of service. Superseded by section 69-09-02-05.1.

69-09-02-05.1. Discontinuance of electric service.

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
 - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including, but not limited to, the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory

installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	—	—
2. Do you have any emergency medical problem in your household?	—	—
3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect?	—	—
4. Do you desire that some other third party be contacted in the event of a disconnect? If so, name and address of person _____	—	—
5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem.		
Utility Telephone Number _____		
Office Address _____		

Date _____ Name _____
Address _____
Signature _____

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.
4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute, and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the

customer is utilizing electricity before the energy has passed through a meter installed by the utility.

9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.
10. A utility may not discontinue service to a customer for nonpayment of a deposit.

History: Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-06. Continuity of service.

1. Each utility shall make every reasonable effort to prevent interruptions of service, and when such interruptions occur shall endeavor to reestablish service within the shortest possible time. Whenever the service is necessarily interrupted or curtailed for the purpose of working on equipment, it shall be done at a time which, if at all practicable, will cause the least inconvenience to customers, except in cases of emergency.
2. Each utility shall keep a record of all interruptions to service affecting the entire distribution system of any single community or an important division of a community, and include in the record the date and time of interruption, the date and time service was restored, and, if known, the cause of each interruption. Service interruption records shall be kept for a period of six years.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-02-07. Extension of service.

1. It shall be the obligation of each utility to make reasonable extensions of its lines and services to new customers within any area in which it is authorized to serve.