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Rule No. 13

TERMINATION OF SERVICE

13-1 Definitions - For purposes of this Rule:

- A. Appliances essential for maintenance of health means any electric energy-using device, which is certified by a licensed physician as being essential to prevent or to provide relief from serious illness or to sustain the life of a member of the household and for which there is no reasonable alternative.
- B. Customer means any purchaser of electric service supplied by the Utility for residential purposes. A person who requests disconnection of service at his or her current address in order to move service to his or her new address with no break in the service is an existing customer, not an applicant for new service.
- C. Delinquent account means an account for residential service that remains unpaid for at least thirty (30) days after the bill is rendered. The exact due date shall be printed on the face of the bill.
- D. Discontinuance of service means a cessation of service voluntarily requested by a Customer.
- E. Elderly means any residential electric consumer aged 62 or older, who resides at the service address.
- F. Handicapped means any residential electric consumer who resides at the service address and has any physical or mental impairment which substantially limits one or more of such person's life activities, and such person:
  - 1. Is certified as being physically disabled by a licensed physician; or
  - 2. Is certified as being mentally disabled by a licensed psychiatrist or registered psychologist, Veterans Administration, Social Security Administration, or local board of health.
- G. Landlord Customer means one or more individuals or an organization listed on the Utility's records as the party responsible for payment of the electric service provided to one or more residential units of a building, which is occupied by a tenant.
- H. Person unable to pay or to pay only in installments means any purchaser of electric service for residential purposes, who is a recipient of public assistance and/or has an income at or below federal poverty guidelines.
- I. Residential building means a building containing one or more dwelling units occupied by one or more tenants, but excluding hotels and motels not used primarily for residential purposes.

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- J. Tenant means any person or group of persons whose dwelling unit in a residential building is provided electricity, pursuant to a rental agreement, but who is not the Customer of the Utility.
- K. Termination of service means a cessation of service effectuated by the Utility and not voluntarily requested by a Customer.
- 13-2 Grounds for Termination of Service - Subject to the requirements of these Rules, the Utility may terminate service to a Customer for any of the following reasons:
- A. Nonpayment of a delinquent account;
  - B. Misrepresentation of identity for the purposes of obtaining utility service;
  - C. Unauthorized interference, diversion, or use of the Utility's service situated or delivered on or about Customer's premises, or when any evidence of tampering with the meter or interference with the proper functioning thereof is found;
  - D. Failure to comply with the terms and conditions of a deferred payment agreement made in accordance with these Rules;
  - E. Refusal to grant a duly authorized representative of the Utility access to equipment upon the premises of the Customer at reasonable times for the purposes of inspection, maintenance, or replacement when the Utility has given Customer reasonable notice of the need for such access and the time of visitation; or
  - F. Violation of other rules of the Commission or Utility which adversely affects the safety of customers or other persons, or the integrity of the Utility's delivery system.
- 13-3 Prohibited Grounds for Termination of Service - Neither of the following shall constitute grounds for the Utility to terminate service:
- A. The failure of any person, other than the Customer against whom termination is sought, to pay any charges due to the Utility; or
  - B. The failure of a Customer to pay for merchandise, appliances, or other services not contained in tariffs approved by the Commission.

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13-4 Statement of Termination Policy - A current general statement of the Utility's termination policy shall be posted in all local business offices of the Utility, shall be made available upon request to all existing Customers, and shall be provided to all new Customers when they initiate service. This statement must be written in clear and understandable language and must include the following information:

- A. The time allowed to pay outstanding bills;
- B. A statement that arrangements for installment payment of delinquent bills can be made at any time prior to termination of service;
- C. The title and telephone number of the Utility employee to whom inquiries and disputes may be directed;
- D. The time allowed to initiate a dispute;
- E. Instructions for designating a third party to receive a copy of termination notices;
- F. Instructions for designating elderly or handicapped status or a medical emergency;
- G. Instructions for designating the presence of special appliances essential for maintenance of health or safety;
- H. Details of the method of termination as described below in Rule No. 13-13; and
- I. Availability of a copy of the Commission's rules on termination of service.

13-5 Notice Prior to and at the Time of Termination

- A. Except as provided for below in Rule Nos. 13-5 B. 2 or 13-7, the Utility may not terminate service to any residential, commercial, firm industrial, or other Customer unless written notice is served.
- B. Termination notice shall be served as follows:
  - 1. If no response to the first notice is received within ten (10) days of mailing, the Utility must send a second notice by first class or certified mail (return receipt requested). The second notice must be sent by the Utility or personally served on the Customer at least ten (10) days prior to the date of the proposed termination.

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2. The Utility may terminate utility services upon serving written or telephone notice five (5) business days prior to the proposed termination date when a Customer:
    - a. Remits an insufficient funds check as payment to the Utility after receiving the first notice of termination; or
    - b. Breaches a payment agreement made pursuant to Rule No. 13-15 below.
  3. The provisions of above Rule No. 13-5 B. 1 shall govern notice of termination to Landlord Customers, except that the first notice must be sent at least thirty (30) days prior to the date of the proposed termination.
  4. The Utility shall give written notice of the proposed termination for nonpayment to each residential unit reasonably likely to be occupied by an affected tenant of a Landlord Customer subject to termination. Such notice shall not be rendered earlier than five (5) business days following initial notification to the Landlord Customer. However, if the Landlord Customer disputes the amount owing, such notice shall not be rendered until the dispute has been resolved. In no event shall such notice be served upon the tenants less than fifteen (15) days prior to the termination of service to the Landlord Customer because of nonpayment. Upon affidavit, the Commission may, for good cause shown by the Utility, reduce the minimum time between notification of the Landlord Customer and notification of the tenants.
  5. Prior to termination of service, the Utility must make a diligent attempt to contact the Customer, either in person or by telephone, to apprise Customer of the proposed action. If telephone or personal contact is not made, the Utility employee shall leave notice in a place conspicuous to the Customer that service will be terminated two business days thereafter unless the delinquent charges have been paid.
- C. When service is terminated, the Utility employee terminating service shall leave notice upon the premises in a place conspicuous to the Customer that service has been terminated which gives the address and telephone number of the Utility where Customer may arrange to have service restored. The Utility shall have personnel available after the time of termination and during normal business hours authorized to reconnect service if the conditions cited as grounds for termination are corrected to the Utility's satisfaction and upon payment of any reconnection charge specified in the Utility's filed tariffs.

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13-6 Contents of Written Notice - The written notices required by these Rules must contain:

- A. The Utility's statement of termination policy;
- B. An identification of the Customer and service account affected by the proposed termination;
- C. A statement of reasons for termination;
- D. The date of proposed termination;
- E. The amount of the reconnection fee, if any;
- F. A summary of rights and remedies, including procedures to dispute the termination notice, provisions relating to elderly and handicapped consumers and those suffering a medical emergency, provisions for Customers who are unable to pay their bills and steps necessary to make a claim of inability to pay, availability of installment payment arrangements, and sources of financial assistance.
- G. Designation of the bill in question as actual or estimated;
- H. Except for notification of tenants, amount owed and time period over which amount was incurred;
- I. Instructions on how service can be restored; and
- J. In the case of a Landlord Customer, the date on or after which the Utility will notify tenants of the proposed termination;
- K. In the case of notification of tenants:
  - 1. The amount of an average monthly bill for utility service to the premises and the largest bill for utility service to the premises in the previous 12 months; and
  - 2. A statement that Commission procedures and the laws of Montana may give the tenant certain rights with respect to which the tenant may wish to consult an attorney or Montana Legal Services.

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13-7 Grounds for Termination of Service Without Written Notice - The Utility may terminate service without prior notice only:

- A. If a condition immediately dangerous or hazardous to life, physical safety, or property exists;
- B. Upon order by any court, the Commission, or any other duly authorized public authority;
- C. If such service is obtained fraudulently or without authorization of the Utility; or
- D. For violations of, and/or noncompliance with, any applicable federal, state, municipal or other local laws, regulations, and codes.

13-8 Customer's Right to Dispute a Termination Notice

- A. The Utility must provide a reasonable procedure for Customers to dispute the termination of service. If the Utility decides such a dispute against a Customer, it must do so in writing and must advise the Customer that Customer may appeal the decision to the Commission. If the Commission is not able to resolve the complaint informally, the Customer may institute formal complaint proceedings under ARM 38.2.2101.
- B. In its investigation of the proposed termination or during any hearing regarding the proposed termination, the Commission may make inquiry of the parties as to the following matters, among others:
  - 1. The extent to which Customer has control over their source of money for payments, including such matters as the lateness of public assistance checks;
  - 2. Weather conditions;
  - 3. The existence of illness of residents in the affected units;
  - 4. The ages of the persons residing in the affected units; and
  - 5. The existence of, or potential for, termination of service by other companies.
- C. The Commission may consider and give due weight to the above matters in any decision rendered on the appeal.

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- 13-9 Termination Notice for Nonpayment - When Prohibited - A notice of termination of service may not be issued for nonpayment of a delinquent account if the entire amount is disputed by the Customer and the Customer is currently negotiating the dispute with the Utility or has filed a complaint with the Commission. The Utility may, however, issue a notice of termination of service with respect to that portion of any delinquent account, which is not disputed by the Customer.
- 13-10 Termination of Service During Winter Months
- A. During the period of November 1 to April 1, and on any day when the reported ambient air temperature at 8:00 a.m. is at or below freezing or if the U.S. Weather Service forecasts a snowstorm or freezing temperatures for the succeeding 24-hour period, no termination of residential service may take place if a Customer establishes that they are unable to pay or are able to pay only in installments, that they or a member of the household is at least 62 years old, or that they or a member of the household is handicapped.
  - B. No termination of service may take place during the period of November 1 to April 1 except with specific prior approval of the Commission.
  - C. Notwithstanding the provisions of preceding subparagraphs A and B immediately above, the Utility may discontinue service where a hazardous or dangerous condition exists or as otherwise provided for in Rule No. 13-7.
- 13-11 Medical Emergencies
- A. Service may not be terminated to a residence where a physician or local board of health certifies to the Utility that the absence of service will aggravate an existing medical emergency of any permanent resident. All certifications must be in writing. The certificate must provide the name and address of the person with a medical emergency that would be aggravated by a termination of service and the office address and telephone number of the certifying physician or local board of health. All written certification must be signed by a physician or by a person with knowledge of the facts at the local board of health. A medical emergency certificate expires in thirty (30) days but may be renewed on a monthly basis.
  - B. To avoid the burden of substantial arrearage at the end of the medical emergency, the Utility and the Customer, or a representative of the Customer, shall negotiate an equitable payment plan that is reasonable and consistent with Customer's ability to pay. If the parties cannot reach a satisfactory agreement, either party may seek such an agreement through the Commission.

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13-12 Time of Termination - Service shall not be terminated on a day, or a day immediately preceding a day, when the services of the Utility are not available to the general public for the purpose of reconnecting terminated service. Service may be terminated only between the hours of 8:00 a.m. and 12:00 noon. The provisions of this paragraph do not apply to discontinuance of service voluntarily requested by a Customer.

13-13 Method of Termination

- A. Actual termination may not take place until two business days after personal or telephone notice or, in the alternative, two business days after notice has been posted in a place conspicuous to the Customer when Customer was not contacted personally or by telephone.
- B. The Utility's representative (employee) shall, at the time of termination, attempt to inform the occupant of the affected residence that service is to be terminated. The employee shall present the occupant with a statement of charges due and shall request verification that the delinquent charges have not been paid or are not subject to a dispute previously registered with the Utility or the Commission. Upon the presentation of evidence, which reasonably indicates that the charge has been paid or is subject to a dispute previously registered with the Utility or the Commission, service shall not be terminated.
- C. The employee shall be authorized to accept payment. If payment in full of all delinquent charges is tendered, service shall not be terminated.
- D. Payment may be tendered in any reasonable manner including personal check. Payment by personal check is not reasonable if Customer has paid the Utility with checks returned for insufficient funds twice or more within the previous two (2) years.

13-14 Third-Party Notification - If a Customer designates a third person to receive customer notifications of termination of service, the Utility shall forward a duplicate of such notices to the designated third party. The third party so notified will not be liable for the account of the Customer, unless such third party has agreed to be a guarantor for the Customer.

13-15 Payment Arrangements

- A. When a Customer cannot pay a bill in full, the Utility may continue to serve the Customer if Customer and the Utility can agree on a reasonable portion of the outstanding bill to be paid immediately, and the manner in which the balance of the outstanding bill shall be paid.

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- B. In deciding on the reasonableness of a particular agreement, the Utility shall take into account the Customer's ability to pay, the size of the unpaid balance, Customer's payment history, and the amount of time and reasons why the debt is outstanding.
  - C. If a Customer fails to make the payment agreed upon by the date that it is due, the Utility may, but is not obligated to, enter into a second such agreement.
  - D. No such agreement or settlement shall be binding upon a Customer if it requires the Customer to forego any right provided for elsewhere in these Rules.
- 13-16 Identification of Landlord Customers - The Utility shall determine, prior to termination, whether a tenant occupies the residence subject to termination.
- 13-17 Notice to Commission of Terminations Affecting Tenants
- A. Notwithstanding anything contained elsewhere in these Rules, prior to any termination for nonpayment that would affect tenants, the Utility shall notify the Commission in writing of the proposed termination. Upon notice and investigation of such proposed termination, or during any hearing pursuant to the complaint procedures provided for in ARM 38.2.2101 et seq., the Commission may make inquiry of the parties as to the following matters, among others:
    - 1. The amount the tenants have paid to the Utility in relation to the amount equal to one month's bill and the arrearage on any earlier bill due from tenants;
    - 2. The number of vacant units in the building;
    - 3. The extent to which the tenants have control over their source of money for rent payments, including such matters as the lateness of public assistance checks, direct rent payments by the Welfare Department to the tenants' landlord, or participation by the tenants in a leased housing or rental assistance program;
    - 4. Whether the tenants are engaged in rent withholding against their landlord;
    - 5. The amount of payments recently received by the Utility from the landlord and the size of the past due bill of the landlord;
    - 6. Whether the Utility has pursued collection remedies, other than threatened termination of service, against the landlord;

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7. Weather conditions;
  8. The existence of illness of persons residing in the affected units;
  9. The ages of the persons residing in the affected units;
  10. The availability of other housing to the tenants; and
  11. The existence of, or potential for, termination of service by other companies.
- B. The Commission may consider and give due weight to the above matters in any decision rendered on the complaint.
- 13-18 Exemptions - If hardships result from the application of any of these termination Rules, or if unusual difficulty is involved in complying with any of these Rules, application may be made by the Utility to the Commission for permanent or temporary exemption from its provision, but such application shall be supported by full and complete justification for such action.
- 13-19 Restoration of Service - Whenever service is terminated under the provisions of this Rule (except Rule No. 13-7), the Utility will restore service after the Customer has fulfilled the requirements for restoration as set forth in the termination notice prescribed by Rule No. 13-6. Where service has been terminated under the provisions of Rule No. 13-7, conditions for restoration of service will be determined on a case-by-case basis.
- 13-20 Discontinuance of Service by Customer - Customer shall give the Utility at least 24-hours' notice, Saturdays, Sundays, and holidays excluded, to discontinue service, unless a longer time for notice of discontinuance is provided for in the service agreement.

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