

3
4 **HOUSE BILL No. 2186**

5
6 By Committee on Utilities

7
8 2-4
9

10 AN ACT concerning certain public utilities; relating to residential cus-
11 tomers; providing for special payment and service disconnection pro-
12 cedures under certain circumstances.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. As used in this act:

16 (a) "Cold weather rule" means the provisions of section 2, and
17 amendments thereto.

18 (b) "Commission" means the state corporation commission.

19 (c) "Customer" means residential customer.

20 (d) "Electric public utility" means any electric public utility, as de-
21 fined in K.S.A. 66-101a, and amendments thereto, ~~under the jurisdiction~~
22 ~~of the state corporation commission~~ **unless exempted from the juris-**
23 **isdiction of the commission pursuant to K.S.A. 66-104b, 66-104c or**
24 **66-104d, and amendments thereto.**

25 (e) "Natural gas public utility" means any natural gas public utility,
26 as defined in K.S.A. 66-1,200, and amendments thereto, under the juris-
27 diction of the state corporation commission.

28 Sec. 2. (a) No electric public utility or natural gas public utility shall
29 disconnect residential service to a customer between November 1 and
30 March 31 when the national weather service forecasts the temperature
31 in the area of the customer's residence will be 35 degrees Fahrenheit or
32 below within the following 48-hour period unless:

33 (1) The disconnection is at the customer's request;

34 (2) the service is abandoned;

35 (3) a dangerous condition exists on the customer's premises;

36 (4) the customer violates any rule of the utility which adversely affects
37 the safety of the customer or other persons, or the physical integrity of
38 the utility's delivery system;

39 (5) the customer causes or permits, without making restitution there-
40 for to the utility, unauthorized interference with, or diversion or use of,
41 utility service situated or delivered on or about the customer's premises,
42 including, but not limited to, diversion by meter bypass;

43 (6) the customer misrepresents the customer's identity for the pur-

1 pose of obtaining or retaining utility service; or

2 (7) the customer tenders an insufficient funds check as the initial
3 payment or an installment payment under a payment plan agreement and
4 does not cure the insufficient payment during the 10-day period after a
5 disconnection notice is sent to the customer.

6 (b) Under any circumstance described in subsections (a)(1) through
7 (a)(4), the public utility may disconnect the service immediately. Under
8 any circumstance described in subsection (a)(5) or (a)(6), the utility may
9 disconnect the customer 48 hours after a disconnection notice is left on
10 the customer's door or personal or telephone contact is made with the
11 customer and the telephone number of the commission's consumer pro-
12 tection office is given to the customer, or 10 days after a disconnection
13 notice is sent to the customer by first class mail, whichever is quicker.
14 Under the circumstance described in subsection (a)(7), the utility may
15 disconnect the customer 10 days after a disconnection notice is sent to
16 the customer by first class mail if the customer has not cured the insuf-
17 ficient payment during the 10-day period regardless of the temperature
18 described in subsection (a). In the case of a disconnection under subsec-
19 tion (a)(5), the described circumstances shall be deemed to have been
20 corrected when the customer has paid, entered into a binding agreement
21 to pay or made arrangements to pay for service obtained as a result of
22 the diversion of service or as the result of theft or fraudulent use of
23 services, plus associated investigative costs. In the case of a disconnection
24 under subsection (a)(7), the utility may disconnect the customer 10 days
25 after a disconnection notice is sent to the customer by first class mail if
26 the customer has not cured the insufficient payment during the 10-day
27 period regardless of temperature described contained in subsection (a).
28 Service disconnected under subsection (a)(3) or (a)(4) must be restored
29 as soon as possible after the physical problems have been corrected.

30 Sec. 3. (a) If a customer of an electric public utility or natural gas
31 public utility wishes to avoid service disconnection for failure to pay the
32 customer's bill or wishes to qualify to have service reconnected after dis-
33 connection for failure to pay the customer's bill, the customer shall inform
34 the utility of the customer's inability to pay the customer's bill in full and
35 the utility and the customer shall enter into a payment plan agreement
36 as provided by this section.

37 (b) The first payment plan agreement entered into by the utility and
38 the customer shall provide for the customer to comply with the following
39 payment plan or a payment plan, negotiated by the utility and the cus-
40 tomer, which has terms at least as favorable to the customer as the
41 following:

42 (1) The customer shall make an initial payment equal to the sum of
43 $\frac{1}{12}$ of the customer's arrearage plus the customer's bill for consumption

1 during the most recent billing period for which service was provided to
2 the customer plus any disconnection, reconnection or collection charges
3 owed by the customer; and

4 (2) the customer shall pay the balance of the customer's arrearage
5 plus the customer's current and future utility consumption in equal in-
6 stallments over the next 11 months.

7 (c) If a customer defaults on the payment plan under an agreement
8 pursuant to subsection (b), the utility and the customer shall enter into a
9 second payment plan agreement. Such agreement shall provide for the
10 customer to comply with the following payment plan or a payment plan,
11 negotiated by the utility and the customer, which has terms at least as
12 favorable to the customer as the following:

13 (1) The customer shall make an initial payment equal to the sum of
14 $\frac{1}{6}$ of the customer's arrearage plus the customer's bill for consumption
15 during the most recent billing period for which service was provided to
16 the customer plus any disconnection, reconnection or collection charges
17 owed by the customer; and

18 (2) the customer shall pay the balance of the customer's arrearage
19 plus the customer's current and future utility consumption in equal in-
20 stallments over the next five months.

21 (d) If a customer defaults on a payment plan under an agreement
22 pursuant to subsection (c), the utility and the customer shall enter into a
23 third payment plan agreement. Such agreement shall provide for the cus-
24 tomer to comply with the following payment plan or a payment plan,
25 negotiated by the utility and the customer, which has terms at least as
26 favorable to the customer as the following:

27 (1) The customer shall make an initial payment equal to the sum of
28 $\frac{1}{4}$ of the customer's arrearage plus the customer's bill for consumption
29 during the most recent billing period for which service was provided to
30 the customer plus any disconnection, reconnection or collection charges
31 owed by the customer; and

32 (2) the customer shall pay the balance of the customer's arrearage
33 plus the customer's current and future utility consumption in equal in-
34 stallments over the next three months.

35 (e) A customer wishing to enter into a payment plan agreement pur-
36 suant to this section shall give the utility sufficient information to allow
37 the utility to make such agreement. Each payment plan agreement pur-
38 suant to this section shall require the customer:

39 (1) To apply for federal, state, local or other assistance for which the
40 customer is eligible;

41 (2) not to divert illegally utility service by meter bypass or any other
42 means; and

43 (3) not to default on the payment plan.

1 (f) A payment plan agreement pursuant to this section may provide
2 for any deposit required in conjunction with the cold weather rule to be
3 amortized over the term of the payment plan. The utility shall give written
4 notice of this provision to each customer required to make such deposit.

5 (g) If a customer defaults on a payment plan under an agreement
6 pursuant to subsection (d), the customer's utility service shall be discon-
7 nected in accordance with section 4, and amendments thereto, unless
8 otherwise provided by agreement between the utility and the customer.
9 Such customer shall not be eligible for resumption of utility service for a
10 period of 12 months after the date of disconnection, except as provided
11 by subsection (h).

12 (h) If an electric public utility or natural gas public utility has discon-
13 nected service to a customer for failure to pay the customer's utility bill,
14 service to such customer shall be reconnected whenever the customer
15 pays in full the total amount owed the utility, unless otherwise provided
16 by agreement between the utility and the customer.

17 (i) Social service agencies designated by a utility pursuant to section
18 5, and amendments thereto, shall encourage customers who have entered
19 into payment plan agreements pursuant to this section to renegotiate such
20 plan if the customer receives utility or other lump sum assistance.

21 (j) The identities of customers who enter into an agreement pursuant
22 to this section shall be confidential and shall not be publicly released by
23 the utility except to social service agencies designated by the utility pur-
24 suant to section 5, and amendments thereto, or as otherwise provided by
25 law.

26 Sec. 4. (a) Each electric public utility and each natural gas public
27 utility shall:

28 (1) Send by first class mail a written notice of the cold weather rule
29 once a year at least 30 days prior to November 1 to each customer who
30 is currently receiving service from such utility as well as to each residence
31 that has been disconnected during or after the most recent cold weather
32 period and that remains without service. Each utility shall file a copy of
33 the notice with the commission; and

34 (2) send by first class mail a written notice to a customer at least 10
35 calendar days before termination of the customer's residential service for
36 failure to pay the customer's bill.

37 (b) An electric public utility or natural gas public utility shall not
38 disconnect any customer's residential service until the national weather
39 service forecasts that the temperature in the area of the customer's res-
40 idence will be at or above the temperature specified in subsection (a) of
41 section 2, and amendments thereto, for the next 48 hours. During the
42 first 24 hours after such forecast is issued, which will be the day prior to
43 disconnection, the utility shall make at least one attempt to contact the

1 customer of record by telephone and shall make at least one attempt to
2 contact the customer of record by personal contact on the day prior to
3 termination of service if the utility has not been able to contact the cus-
4 tomer by telephone on that day. If the utility is not able to contact the
5 customer by telephone or by personal contact the day prior to termination
6 of service, a utility employee shall leave a disconnect message on the door
7 on the day prior to disconnection. No charge shall be imposed for leaving
8 such message. On the day of disconnection, the utility must receive a
9 forecast from the national weather service that the temperature in the
10 area of the customer's residence will be at or above the temperature
11 specified in subsection (a) of section 2, and amendments thereto, for the
12 next 24 hours. If, prior to the disconnection of service, the national
13 weather service forecasts that the temperature in the area of the cus-
14 tomer's residence will be below such temperature on the day such dis-
15 connection is scheduled, the disconnection may not be carried out and
16 the utility must wait for another forecast from the national weather service
17 that the temperature in the area of the customer's residence will be at or
18 above the temperature specified in subsection (a) of section 2, and
19 amendments thereto, for the next 48 hours and follow the same proce-
20 dures set out in this subsection before disconnection.

21 (c) The requirements to attempt to contact a customer pursuant to
22 subsection (b) are in addition to any notice requirements contained in the
23 commission's standards on discontinuance of service effective July 9,
24 2002, except as otherwise provided by the commission in standards
25 adopted subsequent to that date. In addition, the utility shall:

- 26 (1) Inform the customer of the existence of the cold weather rule;
- 27 (2) unless the customer is in default under an agreement pursuant to
28 subsection (d) of section 3, and amendments thereto, and the utility and
29 customer have not entered any further agreement: (A) Inform the cus-
30 tomer of, or provide a list of the requirements of section 3, and amend-
31 ments thereto; and (B) inform the customer how the customer can avoid
32 disconnection by entering into an agreement pursuant to that section;
- 33 (3) provide the customer the telephone number of the commission's
34 consumer protection office;
- 35 (4) inform the customer of, or provide a list of, social service agencies
36 designated by the utility pursuant to section 5, and amendments thereto;
- 37 (5) inform the customer of, or provide a list of, all other pay arrange-
38 ments for which the customer might qualify; and
- 39 (6) adopt and inform customers about a third-party notification plan.

40 Sec. 5. (a) Each electric public utility and each natural gas public
41 utility shall designate one or more social service agencies to provide one
42 or more of the following:

- 43 (1) Verification of whether customers of the utility who are in arrears

1 are unable to pay their utility bills;

2 (2) advocacy on behalf of, representation of and assistance to custom-
3 ers in negotiation of payment plan agreements pursuant to section 2, and
4 amendments thereto, which advocacy, representation and assistance may
5 be provided at any time;

6 (3) counseling and education to encourage management of and fi-
7 nancial responsibility for payment of bills and reduction of energy
8 consumption;

9 (4) financial assistance to customers who are in arrears; and

10 (5) related services such as referral to agencies that provide the serv-
11 ices described above.

12 (b) Each electric public utility and each natural gas public utility shall
13 maintain a list of the agencies designated by the utility pursuant to sub-
14 section (a). Such list shall be public and shall be provided to any:

15 (1) Customer of the utility who informs the utility of the customer's
16 inability to pay the customer's bill;

17 (2) customer when required by section 4, and amendments thereto;
18 and

19 (3) other person upon request.

20 Sec. 6. Electric public utilities and natural gas public utilities shall
21 inform their customers of the long-range advantages of weatherization
22 programs.

23 Sec. 7. A customer shall be deemed in default of a payment plan
24 entered into pursuant to section 3, and amendments thereto:

25 (a) Upon documentation by an electric public utility or natural gas
26 public utility that diversion of service has occurred by meter bypass or
27 other means and that the customer has benefitted from such diversion.
28 Such default may be cured by payment by the customer for the value of
29 the diverted service and all investigative costs. The value of such use shall
30 be estimated based on historic use of such customer or such customer's
31 residence or the best available data plus the associated investigative costs.

32 (b) Upon the issuance of an insufficient funds check for the initial
33 payment or for any installment of the payment plan, unless subsequently
34 cured by the customer.

35 (c) Upon misrepresentation of the customer's identity for the purpose
36 of obtaining or retaining utility service.

37 Sec. 8. (a) An electric public utility or natural gas public utility may
38 file with the commission a cold weather rule plan with terms as favorable
39 or more favorable to the customer than the terms provided by this act.
40 Upon approval of such plan by the commission, the utility shall not be
41 subject to the provisions of this act.

42 (b) Any requirement contained in this act may be waived by the com-
43 mission in an individual case upon written request by the utility and a

1 showing that compliance with the requirement would not serve the in-
2 terests of either the utility or the customer.

3 Sec. 9. The commission may adopt rules and regulations to imple-
4 ment the provisions of this act.

5 Sec. 10. This act shall take effect and be in force from and after its
6 publication in the statute book.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43