

LEGISLATIVE BILL 792

Approved by the Governor February 3, 1988

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to utility service; to amend sections 18-417, 19-2702 to 19-2706, 19-2708 to 19-2711, and 19-2713 to 19-2717, Reissue Revised Statutes of Nebraska, 1943; to transfer and combine provisions relating to denial or discontinuance of service; and to repeal the original sections, and also sections 19-2707 and 19-2712, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 18-417, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~18-417-~~ No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this state shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.

Sec. 2. That section 19-2703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2703-~~ As used in sections ~~19-2702 to~~ ~~19-2717~~ 3 to 15 of this act, unless the context otherwise requires, domestic subscriber shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, or businesses of any nature.

Sec. 3. That section 19-2716, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2716-~~ No municipal utility owned and operated by a village furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any ~~due past-due~~ account unless such utility ~~shall~~ first ~~give~~ gives written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination. As to any subscriber who has previously been identified as a welfare

recipient to the utility by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the department.

Sec. 4. That section 19-2717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2717-~~ Prior to the discontinuance of service to any domestic subscriber by a municipal utility owned and operated by a village, the domestic subscriber, upon request, shall be provided a conference with the board of trustees of the village. A municipal utility owned and operated by a village shall not be subject to sections ~~19-2706 to 19-2714~~ 8 to 14 of this act, but the board of trustees shall establish a procedure to resolve utility bills when a conference is requested by a domestic subscriber. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. The board of trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

Sec. 5. That section 19-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2702-~~ No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company ~~shall~~ first ~~give~~ gives notice as ~~provided in section 19-2704~~ by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. As to any subscriber who has previously been identified as a welfare recipient to the company by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the department.

Sec. 6. That section 19-2704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2704-~~ The notice required by section ~~19-2702~~ 5 of this act shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the utility may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty days from such filing. Only one postponement of disconnection shall be allowed under this subdivision for each incidence of nonpayment of any ~~due~~ past-due account;
- (8) The cost that will be borne by the domestic subscriber for restoration of service;
- (9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
- (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
- (11) Any additional information not inconsistent with this section which has received prior approval from the board of directors or administrative board of any utility.

Sec. 7. That section 19-2705, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2702~~ ~~to~~ ~~19-2717~~ ~~section 3 or 5 of this act~~ shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service, and shall advise its subscribers, including new subscribers, of the availability of such procedures.

Sec. 8. That section 19-2706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2706-~~ A domestic subscriber may request a conference in regard to any dispute over a proposed discontinuance of service before an employee designated by the utility to hear such matters. The employee designated by the utility shall hear and decide all matters disputed by domestic subscribers. The subjects to be heard shall include matters relating to a disputed bill.

Sec. 9. That section 19-2708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2708-~~ A domestic subscriber may dispute the proposed discontinuance of water, natural gas, or electricity by notifying the utility with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the utility may discontinue service.

Sec. 10. That section 19-2709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2709-~~ Upon notice to the employee designated by the utility of any request for a conference by a domestic subscriber, the employee shall:

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

(2) Hold a conference within fourteen days of the receipt of the domestic subscriber's request. Such conference shall be informal and not governed by the Nebraska Rules of Evidence Rules. If the employee determines at the conference that the domestic subscriber did not receive proper notice or was denied any other right afforded under sections ~~19-2702 to 19-2717~~ 5 to 15 of this act, the employee shall recess and continue the conference at such time as the subscriber has been afforded his or her rights. Failure

of a domestic subscriber to attend a scheduled conference shall relieve the utility of any further action prior to the discontinuance of service. If a domestic subscriber ~~shall contact~~ contacts the utility prior to the scheduled conference and demonstrate ~~demonstrates~~ that failure to attend ~~was~~ is for a legitimate reason, the utility shall make a reasonable effort to reschedule the conference.

Sec. 11. That section 19-2710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2710-~~ The employee of the utility shall, based solely on the evidence presented at the conference, affirm, reverse, or modify any ~~utility's~~ decision which involves by the utility involving a disputed bill which results in a threatened termination of utility service. The employee shall allow termination of utility service only as a measure of last resort after the utility ~~shall have~~ has exhausted all other remedies less drastic than termination.

Sec. 12. That section 19-2711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2711-~~ Any domestic subscriber may appeal an adverse decision of the utility employee to a management office designated by the utility or to the utility board when designated by the utility. Each utility shall establish a hearing procedure to resolve utility bills appealed by domestic subscribers. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. Such appeal shall be filed with the management office or utility board within the time specified in the procedures established by the utility. Nothing in sections 2 to 15 of this act shall prohibit any utility from providing such additional stages of appeal as it may deem appropriate.

Sec. 13. That section 19-2713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2713-~~ At any hearing held pursuant to section ~~19-2711~~ 12 of this act, the domestic subscriber may:

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

(2) Examine and copy, not less than three business days prior to such hearing, the utility's file and records pertaining to all matters directly relevant to the dispute or utilized in any way by the utility in

reaching the decision to propose termination or to take other action which is the subject of the hearing;

(3) Present witnesses and offer evidence;

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

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

Sec. 14. That section 19-2714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2714-~~ In any appeal filed pursuant to section ~~19-2711~~ 12 of this act, the management office designated by the utility shall notify the domestic subscriber of the time, place, and date scheduled for such hearing. The notice requirements, hearing procedures, and other rights of domestic subscribers shall be set forth in the procedures established under sections ~~19-2711 to 19-2713~~ 12 and 13 of this act.

Sec. 15. That section 19-2715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~19-2715-~~ Sections ~~19-2702 to 19-2717~~ 2 to 14 of this act shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

Sec. 16. That original sections 18-417, 19-2702 to 19-2706, 19-2708 to 19-2711, and 19-2713 to 19-2717, Reissue Revised Statutes of Nebraska, 1943, and also sections 19-2707 and 19-2712, Reissue Revised Statutes of Nebraska, 1943, are repealed.