

SESSION OF 2003

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2186**

As Amended by House Committee on  
Utilities

**Brief\***

The bill would codify in statute and alter the "cold weather rule" which currently exists as an order of the Kansas Corporation Commission (KCC). Both the bill and the existing order prohibit public utilities from disconnecting residential customers from service under certain circumstances during cold weather. The bill also would establish procedures for customers to negotiate payment plans when faced with discontinuation of utility service due to failure to remain current on their account.

**Covered Utilities.** The bill would impact only those electric and gas utilities that are not specifically exempt by statute from jurisdiction of the KCC. (In general, municipal utilities and cooperatives would not be covered by the bill.) A utility covered by the bill could file with the KCC a cold weather rule with terms at least as favorable to customers as the terms of the bill. If the KCC approves the utility's plan, the utility would not be subject to the act. Requirements of the act could be waived by the KCC in an individual case if the waiver is requested by the utility which would have to show that compliance with the act would serve neither the company nor the customer.

**Disconnections.** Utilities covered by the bill would be prohibited from disconnecting residential service between November 1 and March 31 under certain circumstances. The prohibition applies when the National Weather Service forecasts the temperature in the area where the customer lives to be at or below 35° F during the following 48 hours. The bill would create procedures for disconnection of utility service when the cold weather rule is not in effect. Exceptions to the blanket prohibition would be provided if:

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/kldr>

- The customer requests the disconnection;
- The service is abandoned;
- A dangerous condition exists on the customer's premises;
- The customer violates a utility's rule regarding safety or the physical integrity of the utility's delivery system;
- The customer causes or permits meter bypass or other unauthorized interference with, diversion, or use of utility service at the customer's premises;
- The customer misrepresents the customer's identity in order to obtain service; or
- The customer writes a bad check as the first payment or an installment payment under a payment plan and fails to make the payment within 10 days of being sent a disconnection notice.

The bill would create procedures for disconnecting service under any of the circumstances above.

**Payment Plans.** At any time, if a utility customer wishes to avoid service disconnection for failure to pay or wishes to qualify to have service reconnected the customer would have to enter into a payment plan at least as favorable to the customer as plans detailed in the bill. A customer who has been disconnected from service for failure to pay can be reconnected to service any time the customer pays the amount past due in full, unless the customer and the utility have reached a different agreement.

Three types of payment plans would be created by the bill. Failure to comply with a plan would require negotiation of a new plan in order to maintain service. A second or subsequent plan would provide for a higher initial payment and payment of balance due in a shorter period of time. A utility could only identify customers who enter into a pay agreement with the utility to a designated social service agency, unless otherwise required by law.

An initial payment plan would require the customer to immediately pay 1/12 of the amount past due, plus the most recent month's bill, plus any disconnection, reconnection, or collection charges. Then, the customer would be required to pay the balance of the amount due for past service and the current and future utility consumption in equal installments over the next 11 months. If the customer defaults on the first payment plan, a second agreement would be negotiated.

A second pay plan would require an initial payment of 1/6 of the customer's arrearage, plus the most recent month's bill, plus any disconnection, reconnection, or collection charges. In this second pay plan the customer would have to pay the balance of the past due bill, plus current and future bills in equal installments over five months. If the customer defaults on a second payment plan, a third plan would be negotiated.

Under a third payment plan the customer would have to make an initial payment of 1/4 of the amount past due, plus the most recent month's bill, plus any disconnection, reconnection, or collection charges. The balance due and current and future utility payments would have to be paid in equal installments over the next three months. If a customer defaults on a third payment plan, the customer's utility service would be disconnected for a year as provided in the bill unless the customer pays the past due amount in full or the customer and the utility reach a different agreement.

Any deposit required in conjunction with the cold weather rule could be amortized over the term of a payment plan. The utility involved would have to provide written notice to customers required to make any such deposit of the customer's ability to pay the deposit in installments.

Customers who wish to enter into a payment plan with a utility would be required to provide the utility with sufficient information to permit the utility to enter into the agreement. In addition to entering into a payment plan as described in the bill, the customer would be required to:

- Apply for federal, state, local or other assistance for which the customer is eligible;
- Not illegally divert utility service; and

- Not default on the payment plan.

Social service agencies designated by a utility would be required to encourage customers who have entered into a payment plan with a utility to renegotiate the plan if the customer receives monetary assistance.

**Default.** A customer would be deemed to be in default of a payment plan if the customer:

- Benefits from diversion of service by meter bypass or any other means (a diversion default may be cured by payment of the value of the diverted service and investigatory costs);
- Gives an insufficient funds check for initial payment or any installment of a payment agreement; or
- Misrepresents the customer's identity for purposes of obtaining or retaining utility service.

**Notices.** The bill would require utilities to notify customers by first class mail of the existence of the cold weather rule and of pending disconnection. The bill would establish time limits for provision of those notices. Utility companies also would be required to provide residential customers with a variety of other information including a list of social service agencies designated by the utility to assist customers. Utilities covered by the bill also would be required to inform their customers of the long-range advantages of weatherization programs.

**Social Service Agencies.** Each utility covered by the bill would be required to designate one or more social service agencies to work with the utility's customers. Each utility's list of designated social service agencies would be public and provided to anyone upon request. Designated social service agencies would provide one or more of the following:

- Verification of customers' ability to pay their utility bills;
- Advocacy on behalf of, representation of, and assistance to customers negotiation of payment plans;

- Counseling and education regarding management of and financial responsibility for payment of bills and reduction of energy consumption;
- Financial assistance to consumers who are in arrears; and
- Related services.

## **Background**

The House Committee amended the bill to clarify that cooperatives would not be covered by the bill.

The order instituting the Cold Weather Rule (CWR) was initially adopted by the KCC in the early 1980s. The rule has been modified several times since its inception, most recently in 2002.

The House Committee received testimony in support of the bill from representatives of: The Geary County Health Council, Inc., Junction City; Salina Emergency Aid/Food Bank; the Kansas Association of Community Action Agencies; North Central-Flint Hills Area Agency on Aging; the Emergency Aid Council of the Community Resources Council, Topeka; Flint Hills Bread Basket, Manhattan; The Salvation Army, Junction City; Westar Energy; and Kansas Electric Cooperatives (KEC). The representative of KEC suggested a clarifying amendment.

Testimony in opposition to the bill was presented by the KCC, the Citizens' Utility Ratepayer Board, and AARP.

The Division of the Budget's fiscal note states that the bill would have no fiscal effect on state government. The fiscal note also states that the bill could allow public utilities to collect additional moneys from customers who have defaulted on a payment plan, but that utilities also may incur additional administrative costs as a result of the bill. The fiscal note did not include an estimate of the impact on utilities.