



Tip of the Month January 2022

The Cold Weather Rule: Update

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The thought of having your utilities shut off during a Minnesota winter is truly terrifying. According to 2021 Minnesota Statute 216B.096 (“The Cold Weather Rule”), we are now in the “cold weather period”, which stretches from October 1st to April 30th. This means that energy customers can avail themselves of the Cold Weather Rule protections to prevent heat shutoffs through the winter. This Tip concerns only residential customers of public utilities.

Here’s the shocker: utility providers can disconnect heating utilities for customers who are behind on payment, even in the winter. The role of The Cold Weather Rule is to provide a framework for residential utility customers to establish payment plans to prevent disconnection of utilities, or to reconnect utilities, that provide heat to the residence during the cold weather period. The Rule requires that the utility providers give notice to customers and work with them to create a mutually acceptable payment plan that the customer must follow to avoid disconnection.

NOTICE

Utility providers must notify customers of their rights and the availability of budgeting for utilities and payment plans. The Cold Weather Rule requires that utility provider to give two relevant notices:

1. **Summary of rights and responsibilities** – Between August 15th and October 1st, the utility provider must send customers a summary of their rights and responsibilities, which notably includes: an explanation of the Cold Weather Rule, suggestions for low or no cost methods to reduce energy consumption, and ways to avoid disconnection.
2. **Notice before disconnection** – During the cold weather period, the utility provider must provide the customer with an *easy-to-understand* notice prior to disconnecting services. This notice must include the date of the scheduled disconnection, the amount due, and information regarding payment agreements. The utility provider must mail the notice at least ten working days before disconnection, or personally serve the notice at least seven working days before disconnection (note: “working days” are days, Monday through Friday, excluding legal holidays. The day of mailing and of the customer’s receipt of notice do not count as working days. See Subdivision 7 for complete details on *prohibitions and requirements*).

Upon receiving notice, the customer should immediately contact the utility to investigate payment options to avoid imminent disconnection. Although there are some instances where the customer’s services cannot be

disconnected, such as when no personnel are available to enter payment agreements (e.g., on a holiday), the utilities will be terminated without an agreed payment plan in place.

PAYMENT PLANS

Customers who have fallen behind on utility payments must take measures to try and catch up, or the utilities will be disconnected. During the cold weather period, customers can potentially arrange a payment plan to prevent heating from being shut off. If the customer commits to a plan and makes timely payments on the plan, they cannot be disconnected.

If the customer has already had their utilities disconnected, then a payment plan is required to get the services restored. The utility is to make “reasonable efforts” to have the service restored within 24 hours.

The Cold Weather Rule stipulates that the utility is to take into consideration the customer’s ability to pay and other household circumstances when constructing the payment plan, and the plan must be mutually acceptable, which is a determination reviewable by the Public Utilities Commission.

Low Income Plans – Customers whose household income is at or below 50% of the state median income can enter a plan with their payments capped at 10% of the household income. This status must be verified by providing documentation of household income (Subdivision 6). Additionally, plans can be adjusted if the customer’s financial circumstances change.

TENANTS

In the case of tenants, there are some additional concerns. For example, if a tenant is responsible for payment of utilities, then the failure to pay these utilities may be a breach of their lease and grounds for eviction. Thus, even if the tenant reaches an agreement with the utility, they may still face eviction for lease violations. Therefore, the tenant will want to make agreements with both the utility and the landlord.

Alternatively, if the landlord is responsible for utility payments and the building is facing disconnection, the utility provider is required to post notice of the impending disconnection at the building. If the landlord fails to fix the situation, the tenant may seek a court order requiring the landlord to do so. Loss of heat in the winter can justify the tenant filing an emergency tenant remedy action, an expedited case seeking prompt relief. Tenants also have the option of making current payments directly to the utility provider and deducting the amount from the rent, though careful consideration of the possible repercussions of such an action is advised.

RESOURCES

Customers who are facing disconnection may be able to get help with payments, including energy assistance.

- Statewide, call First Call for Help at 211, or (651) 291-0211.
- [MN Commerce Department’s Energy Assistance Program](#)
- [RentHelpMN COVID-19 Emergency Rental Assistance](#) (utility assistance is potentially available)