



April 29, 2016

Mr. Will Rosquist  
Administrator, Regulatory Division  
Montana Public Service Commission  
1701 Prospect Avenue  
PO Box 202601  
Helena, MT 59620-2601

**RE: Docket No. N2016.4.32 Public Service Commission's Review of Gas and Electric Termination Administrative Rules**

Dear Mr. Rosquist:

Enclosed for filing are NorthWestern Energy's ("NorthWestern") comments on the Montana Public Service Commission's ("Commission") proposed changes to its termination rules promulgated in ARM 38.5.1401 through 38.5.1418. Additionally, NorthWestern has taken this opportunity to provide comments on several termination rules that it believes need revision, but that the Commission has not proposed to revise.

Thank you for the opportunity to provide these comments and we look forward to a robust discussion of these rules at the May 5, 2016, roundtable.

Regards,

**Sarah Norcott**

*Corporate Counsel*

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Enclosure

cc: Montana Consumer Counsel

38.5.1401 DEFINITIONS For purposes of this subchapter:

~~(1) "Appliances essential for maintenance of health" means any electric or gas 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.~~

(2) "Customer" means any purchaser of gas or electric service supplied by a 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.

(3) "Delinquent account" means an account for residential service which remains unpaid for at least 30 days after the bill is rendered. The exact due date shall be printed on the face of the bill.

(4) "Elderly" means any residential electric or gas consumer aged 62 or older, who resides at the service address.

(5) ~~"Handicapped"~~ "Person with a disability" means any residential electric or gas 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:

~~——(a) is certified as being physically disabled by a licensed physician, or~~

~~——(b) is certified as being mentally disabled by a licensed psychiatrist or registered psychologist, veterans administration, social security administration, or local board of health.~~

(6) "Landlord customer" means one or more individuals or an organization listed on a gas or electric utility's records as the party responsible for payment of the gas or electric service provided to one or more residential units of a building, which is occupied by a tenant.

(7) "Person unable to pay or to pay only in installments" means any purchaser of electric or gas service for residential purposes, who is a recipient of public assistance and/or has an income at or below federal poverty guidelines.

(8) "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.

(9) "Tenant" means any person or group of persons whose dwelling unit in a residential building is provided natural gas or electricity, pursuant to a rental agreement, but who is not the customer of the utility which supplies said gas or electricity.

(10) "Termination of service" means a cessation of residential service effectuated by the utility and not voluntarily requested by a customer. (History: Sec. 69-3-103, MCA; IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 641, Eff. 2/29/80; AMD, 2000 MAR p. 1080, Eff. 4/28/00.)

**NorthWestern's comments on proposed rule changes:**

1. 38.5.1401(1) – NorthWestern wonders if deletion of this definition in its entirety is appropriate since the term is still used in ARM 38.5.1404(1)(g) and provides customers with clarification on what appliances/equipment qualify as “essential for maintaining health or safety.” On the other hand, NorthWestern wonders if this definition is necessary given the requirements necessary to be a person classified as a “person with a disability”. For example, if one needs oxygen to survive, he/she will also presumably be a “person with a disability”
2. 38.5.1401(2) – NorthWestern is concerned with the deletion of “residential purposes” from this definition. Reason: The term “customer” is used in almost every rule in this subchapter and with the addition of “residential” to the definition of “termination of service” as well as the fact that “residential” is already in the definition of “delinquent account”, there appears to be inconsistency if the term is deleted from this definition.
3. 38.5.1401(7) – NorthWestern suggests “recipient of public assistance” should be replaced with “LIEAP recipient”. Reason: Receipt of LIEAP assistance should be the determining factor for whether one is a “person unable to pay” their utility bill. Assistance from other programs, i.e. – reduce lunch program, State/Govt.

provided Health coverage, has no bearing on whether one can pay their utility bill.

38.5.1402 GROUNDS FOR TERMINATION OF SERVICE (1) Subject to the requirements of these rules, a 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 purpose of obtaining utility service;
  - (c) Unauthorized interference, diversion or use of the utility's service situated or delivered on or about the customers premises;
  - (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 a utility access to equipment upon the premises of the customer at reasonable times for the purpose of inspection, maintenance or replacement when the utility has given the customer reasonable notice of the need for such access and the time of visitation;
  - (f) Violation of other rules of the commission or utility which adversely affects the safety of the customers or other persons, or the integrity of the utility's delivery system.
- (History: Sec. 69-3-103, MCA; IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 642, Eff. 2/29/80.)

**NorthWestern's comments on current rule:**

1. 38.5.1402(1)(e) – NorthWestern suggests deletion of “for the purpose of inspection, maintenance or replacement” in order to broaden the scope of utility access. For example, sometimes the utility needs to enter premises for billing/meter reading purposes.

38.5.1404 STATEMENT OF TERMINATION POLICY (1) 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 which 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 in ARM 38.5.1413.
- (i) Availability of a copy of the Commission's rules on termination of service.

(History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 644, Eff. 2/29/80.)

**NorthWestern's comments on current rule:**

1. 38.5.1404(1)(b) – NorthWestern suggests replacement of “can” with “may”.  
Reason: This option should not be available in all delinquent payment scenarios. It should be dependent upon account history, such as previous broken arrangements, etc.

If revised as suggested above, the rule would read as follows:

(b) A statement that arrangements for installment payment of delinquent bills may be made at any time prior to termination of service;

2. 38.5.1404(1)(c) – NorthWestern suggests replacement of “title” with “department” and deletion of “employee”. Reason: Calls such as this are directed to our contact center, not a particular employee at the company.

If revised as suggested above, the rule would read as follows:

(c) The department and telephone number of the utility to which inquiries and disputes may be directed;

3. 38.5.1404(1)(f) – Since the Commission proposes to change the definition of “handicapped” to “person with a disability” in ARM 38.5.1401(5), should “handicapped” as used in this rule be replaced with “person with disability” as well?
4. 38.5.1404(1)(g) – NorthWestern suggests revision or deletion of this subpart. Reason: See NorthWestern’s comments on ARM 38.5.1401(1) above.

38.5.1405 NOTICE PRIOR TO AND AT THE TIME OF TERMINATION (1) A utility may not terminate service to any residential, firm, commercial, industrial or other customer unless written notice is served.

(2) Termination notice shall be served as follows:

(a) If no response to the first notice is received within ten 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 days prior to the date of the proposed termination.

~~\_\_\_\_\_ (b) A utility may terminate utility services upon serving written notice five business days prior to the proposed termination date when a customer:~~

~~\_\_\_\_\_ (i) remits an insufficient funds check as payment to the utility after receiving the first notice of termination, or~~

~~\_\_\_\_\_ (ii) breaches a payment agreement made pursuant to ARM 38.5.1415.~~

~~(e) (b)~~ The provisions of (a) shall govern notice of termination to landlord customers, except that the first notice must be sent at least 30 days prior to the date of the proposed termination.

~~(d) (c)~~ The utility shall give written notice of the proposed termination for nonpayment to the Commission and 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 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 15 days prior to the termination of service to the landlord customer on account 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.

~~(e) (d)~~ Prior to termination of service the utility must make a diligent attempt to contact the customer, either in person or by telephone, to apprise him 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 ~~on the next business day~~ unless the delinquent charges have been paid or satisfactory

arrangements have been made. The notice must provide the proposed disconnect date.

(3) A utility may terminate utility services upon serving verbal or written notice five business days prior to the proposed termination date when a customer:

(i) remits a payment to the utility that is refused as a result of insufficient funding, after receiving the first notice of termination, or

(ii) breaches a payment agreement made pursuant to ARM 38.5.1415.

~~(3)~~ (4) 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 the 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. (History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 645, Eff. 2/29/80; AMD, 1982 MAR p. 2177, Eff. 12/31/82.)

**NorthWestern's comments on proposed rule changes:**

1. 38.5.1405(3) – NorthWestern suggests deleting “after receiving the first notice of termination”. Reason: Consistency. It is not a requirement in subpart ii regarding breach of a payment arrangement. Also, NorthWestern sends a letter to a customer who remits insufficient funds and that letter advises the customer of the proposed disconnect date. Finally, as drafted, what if a customer remits an insufficient payment after the second notice – does this rule not apply?

If revised as suggested above, the rule would read as follows:

- (i) remits a payment to the utility that is refused as a result of insufficient funding, or

**NorthWestern's comments on current rule:**

1. 38.5.1405(2)(a) – NorthWestern suggests deleting the written second notice requirement. Reason: The second notice is duplicative of the first notice and customers are aware of balances owed from the initial notice. Elimination of the second written notice will also save costs for all customers.
2. 38.5.1405(2)(d) – NorthWestern suggests deleting “either in person or by telephone”. Reason: Technology provides numerous means of communication and customers should be able to choose how they wish to receive communications from the utility.

NorthWestern also suggests deleting “employee shall leave notice in a place conspicuous to the customer that service” and replace it with “shall attempt to notify” to allow for notification by alternate means. This alternate means, if cost-effective and secure, could be mail (First Class or Certified), text, email or personal contact by phone (including leaving a message on an answering machines/voice mail) if the utility has such capability of providing that form of communication. Placement of tags creates potential for customers’ Personal Identifiable Information (PII) to be accessed by others and is a very costly endeavor. In addition, NorthWestern suggests inserting the sentence, “Notice may be provided by alternate methods that are cost-effective and secure.” right before the last sentence.

If revised as suggested above, the rule would read as follows:

(d) Prior to termination of service the utility must make a diligent attempt to contact the customer to apprise of the proposed action. If telephone or personal contact is not made, the utility shall attempt to notify the customer that service will be terminated unless the delinquent charges have been paid or satisfactory arrangements have been made. Notice may be provided by alternate methods that are cost-effective and secure. The notice must provide the proposed disconnect date.

38.5.1406 CONTENTS OF WRITTEN NOTICE (1) 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;
- (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:
  - (i) 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;
  - (ii) 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. (History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 647, Eff. 2/29/80.)

**NorthWestern's comments on current rule:**

1. 38.5.1406(1)(g) – NorthWestern suggests deleting this subpart in its entirety.  
Reason: NorthWestern's current and previous software does not permit such information to be included on these notices. Customers are advised in advance

of notice of disconnect if billing charges are estimated or actual on the billing statements.

2. 38.5.1406(1)(h) – NorthWestern suggests deleting this subpart in its entirety.  
Reason: NorthWestern’s software does not permit it to provide time period for debt on notices. Customers are made aware of unpaid balances, including time periods, through billing statements or if they contact NorthWestern.

38.5.1410 CRITERIA FOR TERMINATION OF SERVICE BASED ON TIME OF YEAR OR WEATHER DURING WINTER MONTHS (1) Except as provided in ARM 38.5.1407, during the period December 1 through the last day of February, November 1st to April 1st 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 service may take place if: the customer establishes that he or she is unable to pay, or able to pay only installments, that he or she or a member of the household is at least 62 years old or that he or she or a member of the household is handicapped.

(2) no termination of service may take place during the period of November 1st to April 1st except with specific prior approval of the Commission.

(a) the account has a delinquent balance less than \$200; or

(b) a minimum payment of at least 33% of the delinquent charges has been made in the last 30 days; or

(c) the customer establishes that he or she is unable to pay, or able to pay only in installments, that he or she or a member of the household is at least 62 years old or that he or she or a member of the household is a person with a disability.

(2) The commission may intervene and delay termination of services if exceptional circumstances exist.

(3) No termination of residential service may take place on any day when the reported ambient air temperature at 8:00 a.m. is at or below 20 degrees or if the U.S. Weather Service forecasts a snowstorm or temperatures below 20 degrees for the succeeding 24-hour period.

(History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 650, Eff. 2/29/80.)

#### **NorthWestern's comments on proposed rule changes:**

1. 38.5.1410(1)(a) – NorthWestern's concern with this language as drafted is that it seems to suggest that if a customer has a delinquent account and makes a payment(s) so that the balance is below \$200, NorthWestern, at that point, cannot terminate the customer during the winter moratorium but the customer

can continue to generate outstanding balances. Under these proposed rule changes, is it the Commission's position that if those outstanding balances continue to grow, the utility can start the termination process over again with that customer?

2. 38.5.1410(1)(c) – Northwestern seeks clarification regarding language concerning a customer's inability to pay. NorthWestern suggests incorporating language from ARM 38.5.1401(7) so that the definition in that rule applies here. Also, as mentioned in its comments on ARM 38.5.1401(5), NorthWestern believes that LIEAP should be only consideration as it is the only assistance directly related to energy usage/billing. Also, during this moratorium, for these protected customers, the accumulated balances continue to grow and they are not required to make payments given this rule. When the winter moratorium ends, payment of these balances is difficult for some of these protected customers. The shorter winter moratorium may help this but it is still a concern.

If revised as suggested above and the Commission's proposed changes are adopted, the rule would read as follows:

(c) the customer establishes that he or she is a person unable to pay, or able to pay only in installments, that he or she or a member of the household is at least 62 years old or that he or she or a member of the household is a person with a disability.

3. 38.5.1410(2) – Before NorthWestern can provide meaningful comment on this proposed change, it needs clarification of what constitutes "exceptional circumstances" and "delay termination of services". Additionally, how does the Commission plan to "intervene" in such situations?
4. 38.5.1410(3) –NorthWestern believes that the proposed change to this subpart of the rule creates several issues. NorthWestern's Natural Gas Department is able to track temperature (for gas forecasting) with relatively good accuracy.

Precipitation or storm activity is not as predictable. NorthWestern believes that temperature should be the controlling determinative factor.

If revised as suggested above and the Commission's proposed changes are adopted, the rule would read as follows:

(3) Termination of residential service may take place on any day when the US Weather Service forecast the ambient air temperature to be above 32 degrees at any point during the day in the customer's residential area.

38.5.1411 MEDICAL EXCEPTIONS (1) Except as provided herein, service may not be terminated to a residence where a licensed health care professional certifies to the utility that the absence of service will aggravate an existing medical condition which would threaten the health of any permanent resident. A licensed health care professional means a licensed physician, physician assistant-certified, advanced practice registered nurse, or registered nurse provided for in ARM 37.106.2805 and Title 37, MCA. All certifications must be in writing and provide the name and address of the person with the medical condition that would be aggravated by a termination of service. The certification must include the printed name, signature, office address, and telephone number of the certifying licensed health care professional. A medical condition certificate is valid for 180 days from the date it is signed and dated by the licensed health care professional, and may be renewed on a semiannual basis.

(2) To avoid the accumulation of a substantial arrearage during the term of the medical certificate, ~~the utility and the customer, or an authorized representative of the customer, shall negotiate an equitable payment arrangement that is reasonable and consistent with the customer's ability to pay. If the customer fails to make payments as established, resulting in an arrearage of \$500 or more, the customer is required to enter into and comply with a monthly payment arrangement equal to the average of the last 12 months billing usage calculated at current rates, plus  $\frac{1}{12}$   $\frac{1}{6}$  of the arrearage.~~ Failure to enter into a monthly payment arrangement and make payments will result in disconnection proceedings being initiated as set out in (3).

(3) The utility must provide written notice of the initiation of disconnection proceedings to the customer. If the missed payments are not received within ten days of mailing, the utility must send a second notice. From the date of the second notice the customer must pay at least one-third of the delinquent charges or the missed payments, whichever is greater, to avoid termination of service. The second notice must be sent by the utility at least ten days prior to the date of the proposed termination. All written notices must be sent by first class or certified mail. Prior to termination of service the utility must make a diligent attempt to contact the customer, either in person or by telephone, to apprise the 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 on the next business day unless the required payment has been made. The notice must provide the proposed disconnect date. If the required payment is made, ~~a new payment arrangement will be recalculated consistent with (2).~~ the payment arrangement established in (2) will be re-instated. Under no circumstances shall disconnection proceedings occur on accounts with an arrearage of less than \$500 \$300. Nothing in this rule prevents a utility from continuing service to a delinquent medically protected account.

(4) The utility must notify the commission in writing of the proposed termination at the beginning of the disconnection process. The commission may intervene and require a different payment arrangement or delay termination of services if the circumstances warrant. Before the commission will consider approving an alternate payment arrangement, the customer must apply, if eligible, for financial aid through organizations providing utility bill payment assistance and must respond to commission requests for information. The payment arrangement set by the commission is binding upon both the customer and the utility. Failure to comply with the payment arrangement may result in disconnection proceedings being initiated as set out in (3).

(5) From ~~November~~ December 1 through ~~March 31,~~ the last day of February, the utility may not terminate a medical exception account protected from disconnection by the criteria established in ARM 38.5.1410. no termination of service may take place if the customer meets the criteria established in ARM 38.5.1410(1). (History: 69-3-103, MCA; IMP, 69-3-102, MCA; NEW, 1980 MAR p. 651, Eff. 2/29/80; AMD, 2010 MAR p. 754, Eff. 3/26/10.)

#### **NorthWestern's comments on proposed rule changes:**

1. 38.5.1411(2) – NorthWestern suggests adding – after “certificate” in first sentence – “if customer is unable to resolve any outstanding account balance at the time the certification is presented to the utility,”. Reason: To clarify that a customer who presents a medical certificate and is unable to pay any outstanding balance must enter the arrangement provided for under the subpart.

NorthWestern proposes that the payment plan arrangements discussion be revised as follows: the customer is required to “enter into and comply with a 6 month payment arrangement, calculated on total amount owing at time of arrangement being entered to be paid in 6 installments and to include new charges billed each month thereafter for the length of the arrangement”. Reason: Taking the average of the last 12 months and adding 1/6 of arrears may not cover full balances over the period of the arrangement possibly leaving a remaining balance at the end of the arrangement.

If revised as suggested above, it would read as follows:

(2) To avoid the accumulation of a substantial arrearage during the term of the medical certificate, if the customer is unable to resolve the account balance at the time the certification is presented to the utility, the customer is required to enter into and comply with a 6 month arrangement, calculated on total amount owing at time of arrangement being entered to be paid in 6 installments and to include new charges billed each month thereafter for the length of the arrangement. Failure to enter into a monthly payment arrangement and make payments will result in disconnection proceedings being initiated as set out in (3).

2. 38.5.1411(3) – NorthWestern makes the following suggestions to this rule:
  - a. Replace “missed payments” with “account arrears” throughout. Reason: As with any other customer (at least at NorthWestern), if a customer defaults on an arrangement, the requirement should be to resolve all arrears. If a second or alternate arrangement is necessary, parameters should change to avoid potential for continual breaking of arrangements knowing one can get more time.
  - b. Delete second notice requirement. See comments on ARM 38.5.1405 for reasons supporting this suggestion.
  - c. Replace “pay at least one-third of the delinquent charges or the missed payments, whichever is greater” with “pay all arrears or enter into a second, alternate arrangement of ½ of total balance owed paid

immediately and remaining balance to be paid in conjunction with next two bills.” Reason: Proposed changes would allow for a “second chance” at an arrangement. If the customer defaults on the original arrangement, a second arrangement would be entered. If the customer defaults on the second arrangement, barring any Commission intervention, the customer should be required to resolve all outstanding balances to avoid disconnect. This eliminates the potential for accounts to remain unsolved for extended periods of time.

- d. Remove “either in person or by telephone”. Reason: Technology provides numerous means of communication and customer should be able to choose how they wish to receive communication from the utility if the utility has the capability for such communication.
- e. Delete “employee shall leave notice in a place conspicuous to the customer that service” for reasons discussed above in comments on ARM 38.5.1405(2)(d) and revise accordingly.
- f. Delete “If the required payment is made, the payment arrangement established in (2) will be re-instated. Under no circumstances shall disconnection proceedings occur on accounts with an arrearage of less than \$300.” Reason: The initial and alternate arrangement suggested above and in ARM 38.5.1405 allow sufficient time for customers to resolve outstanding balances.
- g. Add as the last sentence: “Accounts not under an active arrangement will process in accordance with regular disconnect rules upon expiration of medical certification for any outstanding arrears.” Reason: If an account has an active agreement at the time the certification expires, the agreement should remain in place as long as the customer adheres to it. Accounts without any active arrangement and arrears should proceed under normal disconnect processing.

If revised as suggested above, it would read as follows:

3) The utility must provide written notice of the initiation of disconnection proceedings to the customer. If the account arrears are not received within ten days of mailing, the utility must send a second notice. From the date of the second notice the customer must pay all account arrears or enter into a second, alternate arrangement of ½ of the total balance owed paid immediately and remaining account balance to be paid in conjunction with next two bills to avoid termination of service. The second notice must be sent by the utility at least ten days prior to the date of the proposed termination. All written notices must be sent by first class or certified mail. Prior to termination of service the utility must make a diligent attempt to contact the customer to apprise of the proposed action. If telephone or personal contact is not made, the utility shall attempt to notify the customer that service will be terminated unless the delinquent charges have been paid. Notice may be provided by alternate methods such as phone (including voice mail/answering machine messages), email, text, mail (first class or certified) or other alternate means of communications as chosen by the customer. The notice must provide the proposed disconnect date. Nothing in this rule prevents a utility from continuing service to a delinquent medically protected account. Accounts not under an active arrangement will process in accordance with regular disconnect rules upon expiration of medical certification for any outstanding arrears.

**NorthWestern's comments on current rules:**

1. 38.5.1411(1) – NorthWestern suggests deleting “, may be renewed on a semiannual basis” from the last sentence and adding the following sentence in its place: “Such certifications are acceptable once in a 12 month period.” Reason: To eliminate perpetual use of the rule to avoid or delay payment of services provided.

If revised as suggested above, it would read as follows:

38.5.1411 MEDICAL EXCEPTIONS (1) Except as provided herein, service may not be terminated to a residence where a licensed health care professional

certifies to the utility that the absence of service will aggravate an existing medical condition which would threaten the health of any permanent resident. A licensed health care professional means a licensed physician, physician assistant-certified, advanced practice registered nurse, or registered nurse provided for in ARM 37.106.2805 and Title 37, MCA. All certifications must be in writing and provide the name and address of the person with the medical condition that would be aggravated by a termination of service. The certification must include the printed name, signature, office address, and telephone number of the certifying licensed health care professional. A medical condition certificate is valid for 180 days from the date it is signed and dated by the licensed health care professional. Such certifications are acceptable once in a 12 month period.

2. 38.5.1411(4) – NorthWestern would like clarification regarding parameters and requirements of “alternate payment arrangement”.

38.5.1412 TIME OF TERMINATION (1) Service shall not be discontinued for non-payment 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 for non-payment only between the hours of 8:00 a.m. and 12:00 noon. (History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 652, Eff. 2/29/80.)

**NorthWestern's comments on current rule:**

1. 38.5.1412(1) – NorthWestern suggests changing “12:00 noon” to “3:00 p.m MST”. Reason: Customer Service staff, area offices, payment locations, etc. offer multiple channels for contact and payment to resolve disconnected services. Expanding time provides both the customer and utility more time to resolve the matter.

38.5.1413 METHOD OF TERMINATION (1) Actual termination may not take place until ~~one~~ two days after personal or telephone notice or, in the alternative, ~~one~~ two business days after notice has been posted in a place conspicuous to the customer when the customer was not contacted personally or by phone.

(2) The utility's representative (employee) shall attempt to inform the occupant of the affected residence that service is to be discontinued. 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.

~~(3) The employee shall be authorized to accept payment. If payment in full of all delinquent charges is tendered, service shall not be terminated.~~

~~(4) Payment may be tendered in any reasonable manner including personal check. Payment by personal check is not reasonable if the customer has paid the utility with checks returned for insufficient funds twice or more within the previous two years.~~

(History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 653, Eff. 2/29/80.)

**NorthWestern's comments on proposed rule changes:**

1. 38.5.1413(1) – NorthWestern suggests deleting “two days after personal or telephone notice or, in the alternative,” and “posted in a place conspicuous to the customer when the customer was not contacted personally or by phone.”

Reason: See NorthWestern's comments on ARM 38.5.1405 above.

If revised as suggested above, the rule would read as follows:

38.5.1413 METHOD OF TERMINATION (1) Actual termination may not take place until final notice is provided to customer advising of proposed disconnection of service as provided for in ARM 38.5.1405.

2. 38.5.1413(2) – NorthWestern suggests that this subpart be deleted in its entirety. Reason: NorthWestern’s serviceman/lineman are not trained for this potential conflict situation. Additionally, receiving cash or other payments in the field is problematic. NorthWestern believes that such notification is more properly handled with communication via phone, text, email if the utility has such communication capabilities. Such alternative form of communication will also assist customers who are away from the premise at the time of attempted contact. Deletion of this subpart also eliminates the potential release of sensitive information to someone other than the account holder.

38.5.1414 THIRD-PARTY NOTIFICATION AND CONTINUATION OF

SERVICE (1) 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 he or she has agreed to be a guarantor for the customer.

(2) Each utility shall promptly, and in no event later than 90 days after the effective date of these rules, devise procedures reasonably designed to provide a voluntary system of third party notification for all customers. Such procedures shall be submitted by each company in writing to the Commission. The Commission may require, by a written notification, such modifications of a utility's procedures as it considers reasonably necessary to carry out the purposes of this rule.

(3) Each utility shall have procedures in place to allow for the uninterrupted continuation of service from one account holder to another when service is disconnected.

(History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 654, Eff. 2/29/80.)

**NorthWestern's comments on proposed rule changes:**

1. 38.5.1414(3) – NorthWestern requests clarification on this proposed change. It is not sure whether situations where disconnect is a result of non-payment or move-outs is applicable under this proposed rule.

38.5.1415 PAYMENT ARRANGEMENTS (1) When a customer cannot pay a bill in full, the utility may continue to serve the customer if the 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.

~~(2) 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, the customer's payment history, and the amount of time and reasons why the debt is outstanding.~~

~~(3) (2)~~ 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.

~~(4) (3)~~ No such agreement or settlement shall be binding upon a customer if it requires the customer to forego any right provided for in these rules. (History: Sec. 69-3-103, MCA, IMP, Sec. 69-3-102, MCA; NEW, 1980 MAR p. 654, Eff. 2/29/80.)

**NorthWestern's comments on current rule:**

1. 38.5.1415(1) – NorthWestern suggests deleting “outstanding bill” and replacing it with “account balance”. Reason: This change would capture all outstanding obligations by customers, not just those on current bill.

If revised as suggested above, the rule would read as follows:

38.5.1415 PAYMENT ARRANGEMENTS (1) When a customer cannot pay a bill in full, the utility may continue to serve the customer if the customer and the utility can agree on a reasonable portion of the account balance to be paid immediately, and the manner in which the balance of the outstanding bill shall be paid.