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SENATE BILL 561

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO UTILITIES; PROHIBITING A MUNICIPALLY OWNED OR
OPERATED UTILITY AND A RURAL ELECTRIC COOPERATIVE FROM
DISCONNECTING UTILITIES DURING THE WINTER MONTHS FOR A LOW-
INCOME CUSTOMER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-6-17 NMSA 1978 (being Laws 1991,
Chapter 81, Section 1, as amended) is amended to read:

"27-6-17. UTILITY SERVICE--PROCEDURES TO FOLLOW PRIOR TO
SERVICE BEING DISCONTINUED.--

A. Unless requested by the customer, no gas or
electric utility, including a municipally owned or operated
utility and a rural electric cooperative, shall discontinue
service to any residential customer for nonpayment during the

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1 period from November 15 through March 15 unless the following
2 procedures are followed:

3 (1) at least fifteen days prior to the date
4 scheduled for utility service to be discontinued, unless the
5 New Mexico public [~~utility~~] regulation commission provides for
6 a shorter period for utilities it regulates, the utility shall
7 mail or hand-deliver to the customer a notice printed in both
8 English and Spanish and in simple language, which notice
9 clearly explains that:

10 (a) utility service shall stop on a
11 specific date;

12 (b) the customer may be eligible for
13 financial assistance to pay for the utility service; and

14 (c) for assistance, the customer should
15 contact the utility or the department;

16 (2) any utility subject to this section shall
17 attempt to advise customers who contact the utility seeking
18 financial assistance of the program administered under the Low
19 Income Utility Assistance Act and of assistance programs the
20 utility may administer on its own or in conjunction with
21 others;

22 (3) the utilities subject to this section and
23 the department shall provide application forms for utility
24 service payment assistance at billing and agency offices; and

25 (4) before the service is actually

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1 discontinued, the utility shall attempt to make contact in
2 person or by telephone to remind the customer of the pending
3 date of discontinuance of service and that financial assistance
4 for utility payments may be available.

5 B. Unless requested by the customer, no gas or
6 electric utility, including a municipally owned or operated
7 utility and a rural electric cooperative, shall discontinue
8 service to any residential customer for nonpayment during the
9 period from November 15 through March 15 until at least fifteen
10 days after the date scheduled for discontinuance of service if
11 the department has certified to the utility that a customer is
12 eligible for utility payment assistance under the Low Income
13 Utility Assistance Act and that payment for the utility service
14 provided to the customer will be made within the fifteen-day
15 period.

16 C. The department and, where appropriate, the New
17 Mexico public [~~utility~~] regulation commission shall coordinate
18 and adopt, as they deem appropriate, either separate or joint
19 rules and regulations necessary to implement the provisions of
20 this section; provided that nothing in this section authorizes
21 the department to revise tariffs or rate filings subject to the
22 jurisdiction of the New Mexico public [~~utility~~] regulation
23 commission.

24 D. For purposes of this section, "utility" means a
25 publicly, privately, municipally or cooperatively owned or

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1 operated utility for the rendition of electric power or gas."

2 Section 2. Section 27-6-18.1 NMSA 1978 (being Laws 2007,
3 Chapter 231, Section 1) is amended to read:

4 "27-6-18.1. PROHIBITION ON DISCONTINUANCE OR
5 DISCONNECTION OF UTILITY SERVICE DURING THE WINTER HEATING
6 SEASON--MINIMUM PAYMENTS--PAYMENT PLANS--EXCEPTIONS.--

7 A. Except as provided in Subsection C of this
8 section, unless requested by the customer, no utility,
9 including a municipally owned or operated utility and a rural
10 electric cooperative, shall discontinue or disconnect service
11 to a residential customer during the heating season for
12 nonpayment of the customer's utility bill if the customer meets
13 the qualifications to receive assistance pursuant to the low
14 income home energy assistance program from the administering
15 authority during the program's current heating season.

16 B. The utility shall make payment plan options
17 available to the customer pursuant to rules adopted by the
18 public regulation commission.

19 C. If the customer does not pay the past due
20 charges from the customer's utility bill before the beginning
21 of the next heating season, the customer shall not be eligible
22 for protection from discontinued or disconnected utility
23 service pursuant to this section during that next heating
24 season until the past due charges are paid in full.

25 D. A customer who has defaulted on the customer's

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1 chosen payment plan and whose utility service has been
2 discontinued or disconnected during the nonheating season can
3 be reconnected and maintain the protection afforded by this
4 section by paying reconnection charges, if any, and by paying
5 the amount due pursuant to the payment plan by the date on
6 which service is reconnected.

7 E. If a customer notifies the utility that the
8 customer needs payment assistance and if the customer requests,
9 the utility, including a municipally owned or operated utility
10 and a rural electric cooperative, shall promptly report the
11 customer's request for assistance to the administering
12 authority. The administering authority shall take prompt
13 action to evaluate the customer's eligibility for the low
14 income home energy assistance program.

15 F. Utilities subject to this section shall make the
16 following information available to the public regarding:

- 17 (1) the low income home energy assistance
18 program's:
- 19 (a) application forms;
 - 20 (b) requirements for qualifying for the
21 program;
 - 22 (c) procedures for making an
23 application; and
 - 24 (d) location to which an application may
25 be submitted; and

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1 (2) the protection against discontinued and
2 disconnected service set forth in this section for customers
3 seeking assistance paying utility bills during a heating
4 season, including:

5 (a) payment options; and

6 (b) circumstances under which
7 disconnection or discontinuance of service may occur.

8 G. As used in this section:

9 (1) "administering authority" means the human
10 services department or a tribal entity that administers its own
11 low-income home energy assistance program;

12 (2) "current season" means the period
13 beginning in September and continuing through August of the
14 subsequent year;

15 (3) "heating season" means the period
16 beginning November 15 and continuing through March 15 of the
17 subsequent year;

18 (4) "nonheating season" means the period
19 beginning on March 16 and continuing through November 14 of the
20 same year; [~~and~~]

21 (5) "tribal entity" means the governing body
22 or an agency of a federally recognized Indian nation, tribe or
23 pueblo located in whole or in part in New Mexico; and

24 (6) "utility" means a publicly, privately,
25 municipally or cooperatively owned or operated utility for the

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