

DULUTH PUBLIC UTILITIES COMMISSION

Tuesday, January 19, 2016

City Council Chambers

AGENDA

1. Roll call
2. Approval of previous meeting minutes
3. Old business:
 - 3.1 Utility appeal procedures
 - General - approval of proposed amendments (tabled 11/17/2015)
 - Cold weather
 - 16-0cold O - AN ORDINANCE ADOPTING SPECIAL PROCEDURES PERTAINING TO TERMINATION OF NATURAL GAS SERVICE DURING THE COLD WEATHER RULE PERIOD, AMENDING ARTICLE XV OF CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED TO ADD A NEW SECTION 48-239.1. (Option #1)
 - 16-0cold-1 O - AN ORDINANCE ADOPTING SPECIAL PROCEDURES PERTAINING TO TERMINATION OF NATURAL GAS SERVICE DURING THE COLD WEATHER RULE PERIOD, AMENDING ARTICLE XV OF CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED TO ADD A NEW SECTION 48-239.1. (Option #2)
 - 16PUC-001 - RESOLUTION OF THE DULUTH PUBLIC UTILITIES COMMISSION RECOMMENDING THAT THE CITY OF DULUTH ADOPT SECTION 48-239.1 OF THE CITY CODE CLARIFYING THE APPLICATION OF THE STATE'S COLD WEATHER RULE.
 - 3.2 16PUC-002 - RESOLUTION OF THE DULUTH PUBLIC UTILITIES COMMISSION RECOMMENDING THAT THE CITY OF DULUTH AMEND SECTION 48-27 OF THE CITY CODE AUTHORIZNG AUGMENTED CHARGES FOR UNAUTHORIZED TURNING ON OF WATER OR GAS SERVICE.
 - 16-0Valve O - AN ORDINANCE AUTHORIZING A PENALTY FOR UNAUTHORIZED TURNING ON OF WATER OR GAS SERVICE AMENDING SECTION 48-27 OF THE DULUTH CITY CODE, 1959, AS AMENDED.
4. New business:
 - 4.1 Water utility discussion
 - 4.2 Election of officers
5. Updates from staff
6. Upcoming Council actions
7. Commissioner questions or comments
8. Preview of upcoming business

DULUTH PUBLIC UTILITIES COMMISSION
Meeting Minutes
November 17, 2015

Members Present: Councilor Zack Filipovich, Councilor Jennifer Julsrud, Rob Prusak, Linda Sellner, Councilor Joel Sipress, Jason Thorsell

Members Absent: Jim Ramnes

Staff Present: Bob Asleson, Jim Benning, Liz Bieter, Todd Carlson, Leanna Gilbert, Howard Jacobson, Tom Johnson, Chris Kleist, Chris Madden, Eric Shaffer, Glenn Strid

Call to Order: The meeting was called to order at 5:15 p.m. by President Prusak.

Public hearing:

15PUC-008 - RESOLUTION ESTABLISHING USER CHARGES FOR THE CITY'S STORMWATER UTILITY EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.

The Commission held a public hearing on stormwater rate resolution 15PUC-008. There were no comments from the public. The hearing was adjourned and the Commission moved on to the next hearing.

Public hearing:

15PUC-009 - RESOLUTION REDUCING CLEAN WATER SURCHARGE EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.

The Commission held a public hearing on clean water surcharge resolution 15PUC-009. There were no comments from the public. The hearing was adjourned and the Commission moved on to the regular meeting.

Approval of previous meeting minutes

Old business:

15PUC-008 - RESOLUTION ESTABLISHING USER CHARGES FOR THE CITY'S STORMWATER UTILITY EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.

Commissioner Filipovich motioned to approve resolution 15PUC-008. After a brief overview of the resolution by Jim Benning, commissioners voted unanimously to approve the resolution.

15PUC-009 - RESOLUTION REDUCING CLEAN WATER SURCHARGE EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.

Commissioner Filipovich motioned to approve resolution 15PUC-009. After a brief explanation by Eric Shaffer about how City staff determined that the clean water surcharge could be decreased now, commissioners voted unanimously to approve the resolution.

Utility appeal procedures

General

Jim Benning stated that a red-line version of proposed changes to the appeal procedures was provided. Commissioner Filipovich inquired about whether the Clerk's should be involved in the appeals process. Jim Benning will check with the City Clerk on this. After further discussion, Commissioner Julsrud motioned to table this topic until January, and the motion was approved unanimously.

Cold weather (update from Attorney)

Bob Asleson reported that, for the purpose of the cold weather rule, this is a municipal utility, not a public utility. There are different rules for municipal utilities in Minnesota statutes. Bob Asleson presented a few options for moving forward with the cold weather appeals process. He will draft a couple ordinances for commissioners to choose from that would provide an exception to the non-reconnect rule.

New business:

2016 meeting schedule

A proposed 2016 meeting schedule was provided showing meetings held on the third Tuesday of each month. After some discussion, Commissioner Julsrud motioned to amend the proposed 2016 meeting schedule to exclude the December 20th meeting. The meeting schedule was approved unanimously as amended.

Fee for customers who turn their water back on after it was shut off by PWU - discussion only

Liz Bieter explained the reason for the proposed fee, and commissioners and staff discussed various aspects of the issue. It was decided that this should be a fine or penalty instead of a fee. Staff agreed to draft a resolution for the Commission to review.

Updates from staff

Eric Shaffer reported that all of the utility construction projects are done for the year with the exception of the 4th Street water main project. Our first cured-in-place pipe (CIPP) on a water main was installed and failed. It is being redone by the contractor. This should be done by the end of the month. Commissioner Sipress inquired about road closure due to this project and also about details of the new CIPP technology. Eric Shaffer responded that if the CIPP fails a second time, we would either have the contractor try a third time or open-cut the pipe in the spring.

Upcoming Council actions

Jim Benning mentioned that a DNR grant for stream restoration that was supposed to end this year is being extended to June or July of next year.

Commissioner questions or comments

Commissioner Sellner mentioned her desire to pursue the acquisition of tax-forfeit properties along streams as green infrastructure. She also mentioned an article that said Duluth is seeking \$76M from the National Disaster Resiliency Competition. Some items included in the grant application are the Armory project, the revitalization of Lincoln Park, and repair or removal of flood-damaged homes. They want to slow the flow of runoff from upland stream watersheds. Commissioner Sellner thinks this would be a good time to talk to the Planning Commission to see if there is any room in this grant proposal for green infrastructure. She also mentioned the proposed revitalization of Memorial Park, which includes a 3-story building and additional parking area.

President Prusak mentioned that City staff does look at tax-forfeit properties when they come up for sale and asked if anyone had a chance to look into the last five properties that were requested not to be sold. Eric Shaffer said that the County has not sold any properties after we have requested that they not sell them, but the same properties do come up again at later dates. Ideally someone would buy the properties and hold them without developing them. Commissioner Sipress mentioned that the County wants to sell as much tax-forfeit land that they can and that the properties should be in a status that

would keep them as public land for perpetuity. Commissioner Julsrud said that this may be appropriate for someone at the state level. Commissioner Sellner stated that she would provide information about the different options for protecting land.

Preview of upcoming business

The next regular meeting is scheduled for Tuesday, January 19, 2016, at 5:15 p.m. in City Council Chambers. Early next year, the Commission will discuss the condition of the water utility and funding of capital projects. This is Commissioner Julsrud's last meeting as a DPUC member. Jim Benning thanked her for her service, as she has been on the Commission since its inception. President Prusak also thanked her.

Adjournment: The meeting was adjourned at 6:38 p.m.

DULUTH PUBLIC UTILITIES COMMISSION
Public Hearing
November 17, 2015

Members Present: Councilor Zack Filipovich, Councilor Jen Julsrud, Rob Prusak, Linda Sellner, Councilor Joel Sipress, Jason Thorsell

Members Absent: Jim Ramnes

Staff Present: Bob Asleson, Jim Benning, Liz Bieter, Todd Carlson, Leanna Gilbert, Howard Jacobson, Tom Johnson, Chris Kleist, Chris Madden, Eric Shaffer, Glenn Strid

Call to Order: The hearing was called to order at 5:15 p.m. by President Prusak.

Under consideration was a proposed increase to the stormwater rates.

There were no comments from the public at the hearing.

The Duluth Public Utilities Commission discussed and voted unanimously to approve the stormwater rate resolution after the public hearing closed.

Adjournment: The hearing was adjourned at 5:17 p.m.

A recording of this hearing is available upon request.

DULUTH PUBLIC UTILITIES COMMISSION
Public Hearing
November 17, 2015

Members Present: Councilor Zack Filipovich, Councilor Jen Julsrud, Rob Prusak, Linda Sellner, Councilor Joel Sipress, Jason Thorsell

Members Absent: Jim Ramnes

Staff Present: Bob Asleson, Jim Benning, Liz Bieter, Todd Carlson, Leanna Gilbert, Howard Jacobson, Tom Johnson, Chris Kleist, Chris Madden, Eric Shaffer, Glenn Strid

Call to Order: The hearing was called to order at 5:17 p.m. by President Prusak.


Under consideration was a proposed decrease of the clean water surcharge to \$4.90.

There were no comments from the public at the hearing.

The Duluth Public Utilities Commission discussed and voted unanimously to approve the clean water surcharge resolution after the public hearing closed.

Adjournment: The hearing was adjourned at 5:18 p.m.

A recording of this hearing is available upon request.

PROCEDURE: Utility Appeal Process - General		Page 1 of 1
	Duluth Public Utilities Commission	Approved by DPUC:
	Effective Date:	Written by: Liz Bieter

PURPOSE:

The purpose of this procedure is to outline the appeals process before the Duluth Public Utilities Commission (the Commission).

PROCEDURE:

An applicant who desires to dispute a **Public Works & Utilities** Department finding that is adverse to the applicant and is an appealable finding must do so within six (6) months of the occurrence that gives rise to the appeal. The applicant shall give written notice of the appeal on a form provided by the Department.

The appeal shall state the nature of the dispute and the basis for the appeal. The applicant shall also state the expected outcome of the appeal. **Appeals submitted without a clear statement of the dispute will be returned to the applicant. The applicant will have 10 days to resubmit the appeal with the appropriate explanation.**

The written notice should be mailed **or hand delivered** to the department director ~~and the City Clerk's Office~~. The applicant will be notified by regular mail **or in person** of the date, time and location of the Commission's meeting.

Any appeal involving a termination of services must be filed prior to the proposed date of termination to avoid action by the Department.

City staff will prepare a facts and findings report and present this report to the Commission prior to the meeting. The Director of Public Works & Utilities shall provide all information from the applicant to the Commission.

Appeals shall be heard at the first meeting of the Commission following the filing of an appeal, if there are at least five (5) business days, exclusive, between the written filing and the meeting. Otherwise, the appeal will be heard at the subsequent meeting.

The Commission has no power to cancel a debt to the Department.

All decisions of the Commission shall be binding on the Department and the applicant, unless contrary to law. Decisions shall be in written form and sent to both the Department and the applicant **within 10 days of the decision.**

Definition of an applicant: Any person or persons applying for water or gas service from the Department and any guarantor of payment for such services as provide for in this chapter (Section 48-1 Duluth City Code).



**City of Duluth Public Works and Utilities Commission
Utility Appeal Form**

Please provide all the information listed below and return form to Director, Duluth Public Works and Utilities Department, 211B City Hall, 411 West First Street, Duluth, MN 55802 ~~with a copy to the Duluth City Clerk's Office, 330 City Hall.~~

Name of person filing this appeal must match the name on the utility account.

Name	_____	Account #	_____
Service Address	_____	Mailing Address	_____
	_____		_____
Daytime Phone	_____	Alternate Phone	_____
E-mail (optional)	_____		

Description of dispute or issue (attach additional sheets and any documentation, if needed):

Description of any action you are requesting or expected outcome of appeal:

I certify that the information I have given is true and accurate to the best of my knowledge.

(Signature) (Print Name) (Date)

Office Use Only- Date form received by Director's Office _____
Hearing date and time _____
Received by _____
Appeal results: Accepted ___ Denied ___

16-0cold O

..Title

AN ORDINANCE ADOPTING SPECIAL PROCEDURES PERTAINING TO TERMINATION OF NATURAL GAS SERVICE DURING THE COLD WEATHER RULE PERIOD, AMENDING ARTICLE XV OF CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED TO ADD A NEW SECTION 48-239.1.

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Article XV of Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended to add a new section 48-239.1 which reads as follows:

Section 48-349.1 Cold Weather Rule Procedures

The provisions of Minnesota Statutes Section 216B.097 and as the same may from time to time be amended shall govern the disconnection and reconnection of natural gas service to residential properties for which natural gas is the primary source of heating fuel between October 15th of any year and April 15th of the succeeding year and to any appeals from any decision of the department with regard the provision thereof. Unless the contrary shall be provided for in said statute, the appeals process set forth in this article shall apply to such disconnection and reconnection decisions except that, nothing to the contrary in section 48-237 above, natural gas service to any such residential property shall not be disconnected during the pendency of any appeal.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

..Statement of Purpose

STATEMENT OF PURPOSE: The purpose of this ordinance is to specifically recognize the application of the so-called "Cold Weather Rule" to the City's provision of natural gas for residential heating and to amend, for situations where the rule is applicable, the City's normal practice of not supplying gas to a property which has been disconnected for any reason during the pendency of any appeal from that decision.

Under Section 237 of the Code, when utility service to a property has been disconnected for any reason, the service stays disconnected during the time pendency of the appeal.

Some time ago, the State legislature passed what is commonly called the "Cold Weather Rule" which is intended to provide special protections to residential customers of heating fuel during the "Cold Weather" period of October 15th through April 15th. In essence it requires the City (and other utilities) to provide notice to low-income customers subject to having their heating fuel disconnected of their rights to retain their access to heating fuel in return for agreeing to a reasonable payment plan. In order to

be entitled to these protections, the customer must meet certain statutory criteria of income and effort to pay. Of particular importance to the City, the Statute provides that the City cannot discontinue services during the pendency of the process which would include an appeal of a factual determination by the City that the criteria had not been met. If the City had already terminated service before an appeal was brought, the requirement under Section 237 referenced above would run directly contrary to the requirements of the Statute.

The purpose of this ordinance is to clarify that the Cold Weather Rule applies to the City's provision of gas for residential heating and to create a special exception to the normal rule referenced above preventing the City from reconnecting service to a property if the Cold Weather Rules requires it.

16-0cold-1 O

..Title

AN ORDINANCE ADOPTING SPECIAL PROCEDURES PERTAINING TO TERMINATION OF NATURAL GAS SERVICE DURING THE COLD WEATHER RULE PERIOD, AMENDING ARTICLE XV OF CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED TO ADD A NEW SECTION 48-239.1.

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Article XV of Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended to add a new section 48-239.1 which reads as follows:

Section 48-349.1 Cold Weather Rule Procedures

(a) Definitions:

For the purposes of this section, the following terms shall have the meanings hereinafter ascribed to them:

(1) Cold Weather Rule Period: shall mean the period between October 15th of any year and the succeeding April 15th.

(2) Customer: shall mean a residential heating applicant for service for a Subject Property occupying the Subject Property as their primary residence or any person occupying Subject Property as their primary residence.

(3) Subject Property: shall mean any residential property occupied by a customer for which natural gas supplied by the City of Duluth serves as the primary heating fuel.

(4) Statute: shall mean Minnesota Statutes Section 216B.097 and as the same may from time to time be amended.

(b) Cold weather rule

Notwithstanding any other provision in the code to contrary, the department shall not terminate natural gas service to any subject property and, during the pendency of any appeal of termination of service, shall restore service to any subject property during the cold weather rule period if a customer occupying the subject property meets all of the following criteria:

(1) The household income of the customer is at or below 50 percent of the state median household income. Department may (i) verify income on forms it provides or (ii) obtain verification of income from the local energy assistance provider. A customer is deemed to meet the income requirements of this clause if the customer receives any form of public assistance, including energy assistance, that uses an income eligibility threshold set at or below 50 percent of the state median household income.

(2) A customer enters into and makes reasonably timely payments under a payment agreement that considers the financial resources of the household.

(3) A customer receives referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's energy bills.

(c) Notice to customer prior to disconnect

Before disconnecting service to a subject property during the cold weather rule period the department shall provide the following information to any customer:

(1) a notice of proposed disconnection;

(2) a statement explaining the customer's rights and responsibilities;

(3) a list of local energy assistance providers;

(4) forms on which to declare inability to pay; and

(5) a statement explaining available time payment plans and other opportunities to secure continued utility service.

(d) Restrictions on customer disconnect

(1) If a subject property must be involuntarily disconnected during the cold weather rule period for failure to comply with subdivision (b), the disconnection must not occur:

(a) on a Friday, unless the customer declines to enter into a payment agreement offered that day in person or via personal contact by telephone by the department.

(b) on a weekend, holiday, or the day before a holiday;

(c) when department offices are closed; or

(d) after the close of business on a day when disconnection is permitted, unless a field representative of department who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer; or

(e) until at least 20 days after the notice required in subsection (f) has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

(e) Customer-failure to respond

If a customer does not respond to a disconnection notice, the subject property must not be disconnected until the department investigates whether the subject property is actually occupied. If the subject property is found to be occupied, the department must immediately inform the occupant of the provisions of this section. If the subject property is unoccupied, the utility must give seven days' written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

(f) Notwithstanding the provisions of section 48-237 above, if, prior to disconnection, a customer appeals a notice of involuntary disconnection, as provided by the department's established appeal procedure, the department must not disconnect until the appeal is resolved.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

..Statement of Purpose

STATEMENT OF PURPOSE: The purpose of this ordinance is to incorporate into the City code the provisions of the so-called "Cold Weather Rule" into the City's water and gas code for situations where the rule is applicable to the provision of natural gas for residential heating, including changing the City's normal practice of not supplying gas to a property which has been disconnected for any reason during the pendency of any appeal from that decision.

Under Section 237 of the Code, when utility service to a property has been disconnected for any reason, the service stays disconnected during the time pendency of the appeal.

Some time ago, the State legislature passed what is commonly called the "Cold Weather Rule" which is intended to provide special protections to residential customers of heating fuel during the "Cold Weather" period of October 15th through April 15th. In essence it requires the City (and other utilities) to provide notice to low-income customers subject to having their heating fuel disconnected of their rights to retain their access to heating fuel in return for agreeing to a reasonable payment plan. In order to be entitled to these protections, the customer must meet certain statutory criteria of income and effort to pay. Of particular importance to the City, the Statute provides that the City cannot discontinue services during the pendency of the process which would include an appeal of a factual determination by the City that the criteria had not been met. If the City had already terminated service before an appeal was brought, the requirement under Section 237 referenced above would run directly contrary to the requirements of the Statute.

The purpose of this ordinance is to incorporate the provisions of the State's Cold Weather Rule into the City code including creating a special exception to the normal rule referenced above preventing the City from reconnecting service to a property if the Cold Weather Rules requires it.

RESOLUTION NO. 16PUC-001

**RESOLUTION OF THE DULUTH PUBLIC UTILITIES
COMMISSION RECOMMENDING THAT THE CITY OF
DULUTH ADOPT SECTION 48-239.1 OF THE CITY CODE
CLARIFYING THE APPLICATION OF THE STATE'S COLD
WEATHER RULE.**

RESOLVED, that the Duluth Public Utilities Commission hereby recommends that the City of Duluth adopt the attached section 48-239.1 to the City code pertaining to the application of the State of Minnesota's cold weather rule, as set forth in Minnesota Statutes Section 216B.097, to the provision of natural gas for residential heating between October 15th and April 15th.

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE

The purpose of this resolution is to clarify the application of the State's so-called Cold Weather Rule to the City's provision of natural gas for residential heating between October 15th and April 15th of any year.

216B.097 COLD WEATHER RULE; COOPERATIVE OR MUNICIPAL UTILITY.

Subdivision 1. **Application; notice to residential customer.** (a) A municipal utility or a cooperative electric association must not disconnect and must reconnect the utility service of a residential customer during the period between October 15 and April 15 if the disconnection affects the primary heat source for the residential unit and all of the following conditions are met:

(1) The household income of the customer is at or below 50 percent of the state median household income. A municipal utility or cooperative electric association utility may (i) verify income on forms it provides or (ii) obtain verification of income from the local energy assistance provider. A customer is deemed to meet the income requirements of this clause if the customer receives any form of public assistance, including energy assistance, that uses an income eligibility threshold set at or below 50 percent of the state median household income.

(2) A customer enters into and makes reasonably timely payments under a payment agreement that considers the financial resources of the household.

(3) A customer receives referrals to energy assistance, weatherization, conservation, or other programs likely to reduce the customer's energy bills.

(b) A municipal utility or a cooperative electric association must, between August 15 and October 15 each year, notify all residential customers of the provisions of this section.

Subd. 2. **Notice to residential customer facing disconnection.** Before disconnecting service to a residential customer during the period between October 15 and April 15, a municipal utility or cooperative electric association must provide the following information to a customer:

(1) a notice of proposed disconnection;

(2) a statement explaining the customer's rights and responsibilities;

(3) a list of local energy assistance providers;

(4) forms on which to declare inability to pay; and

(5) a statement explaining available time payment plans and other opportunities to secure continued utility service.

Subd. 3. **Restrictions if disconnection necessary.** (a) If a residential customer must be involuntarily disconnected between October 15 and April 15 for failure to comply with subdivision 1, the disconnection must not occur:

(1) on a Friday, unless the customer declines to enter into a payment agreement offered that day in person or via personal contact by telephone by a municipal utility or cooperative electric association;

(2) on a weekend, holiday, or the day before a holiday;

(3) when utility offices are closed; or

(4) after the close of business on a day when disconnection is permitted, unless a field representative of a municipal utility or cooperative electric association who is authorized to enter into a payment agreement, accept payment, and continue service, offers a payment agreement to the customer.

Further, the disconnection must not occur until at least 20 days after the notice required in subdivision 2 has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

(b) If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of this section. If the unit is unoccupied, the utility must give seven days' written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

(c) If, prior to disconnection, a customer appeals a notice of involuntary disconnection, as provided by the utility's established appeal procedure, the utility must not disconnect until the appeal is resolved.

Subd. 4. **Application to service limiters.** For the purposes of this section, "disconnection" includes a service or load limiter or any device that limits or interrupts electric service in any way.

History: 1991 c 235 art 2 s 1; 2001 c 212 art 4 s 2; 1Sp2003 c 11 art 3 s 2; 2007 c 57 art 2 s 14,15

RESOLUTION NO. 16PUC-002

**RESOLUTION OF THE DULUTH PUBLIC UTILITIES
COMMISSION RECOMMENDING THAT THE CITY OF DULUTH
AMEND SECTION 48-27 OF THE CITY CODE AUTHORIZING
AUGMENTED CHARGES FOR UNAUTHORIZED TURNING ON
OF WATER OR GAS SERVICE.**

RESOLVED, that the Duluth Public Utilities Commission hereby recommends that the City of Duluth adopt the attached section 48-27 to the City code authorizing augmenting utility charges to be imposed for using water and gas by unauthorized turning on of water or gas service to a property.

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE

The purpose of this resolution is to authorize the city to charge for use of water or gas where persons other than authorized city personnel turn on service to a property and the product is consumed without the City's consent.

Section 48-27 currently prohibits non-city personnel from turning on service after the department has turned it off but, if a property owner does so, there is no specific authorization for charging the customer on an estimated basis or for charging the customer at a rate which reflects the department's costs of enforcement and which would also encourage the customer to come into compliance with the code and department policies and so be entitled to apply for and receive service.

This ordinance amendment would allow the city to charge for the product taken at a rate equal to three times the normal rate and to estimate the volume taken if the exact amount cannot be determined.

16-0Valve O

..Title

AN ORDINANCE AUTHORIZING A PENALTY FOR UNAUTHORIZED TURNING ON OF WATER OR GAS SERVICE AMENDING SECTION 48-27 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That section 48-27 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-27. Turning on gas meter stop or water curb stop after same shut off by department.

(a) No person whatsoever, other than an authorized employee of the city, shall turn on the supply of gas or water after such gas or water has been shut off by the department.

(b) In the event that someone other than an authorized employee of the city shall turn on the supply of gas or water to any property, the department may impose a charge equal to volume of gas or water supplied to such property times a rate equal to three times the rate normally charged for such commodity during the term of its consumption. In the event that the volume of gas or water consumed cannot be determined by objective measurement, the department may estimate the volume of gas or water so consumed based on the best available evidence and charge the applicant based on the foregoing rate. An applicant disputing the volume of gas or water as determined by the department shall have the burden of proving the volume of gas or water actually consumed.

(c) In addition to the volume charges authorized pursuant to subsection (b) above, the department may impose a penalty for each unauthorized turning on of water or gas service to any property in an amount established by commission by resolution.

(d) The charges arising under this section shall be payable in the same manner and time as normal charges for consumption of gas or water on the served property.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

..Statement of Purpose

STATEMENT OF PURPOSE: The purpose of this ordinance is to authorize the department to impose a surcharge on water and gas when the department has turned off a service and someone other than the city has turned the service back on and is taking product without authority.

It would authorize the city to charge the served property at a rate three times the normal rate for the product and, if the volume of product cannot be determined by an objective such as the product meter, to estimate volume based on best available evidence and charge on that basis. A party charged would have the ability to contest the estimate of volume but would have the burden of proof going forward.

In addition the department can impose a penalty for each illegal re-connect.