

Nebraska Supreme Court held that "Notice can be considered adequate only if it is transmitted in a manner which at a minimum has a reasonable certainty of resulting in actual notice". That is from Gruenewald v. Whaara, 229 Neb. 619, 1988, and then in parentheses, (adopting restatement second of judgments, Sec. 21(b), 1982.) What the federal judge said is that NPPD is not giving notice to the ratepayers. The lady out there from NPPD says they have contracts with cities requiring them to notify them, but think of the majority of customers who are not cities and get no notice. When I asked her why they didn't put the notice in the billing statements, she said people don't read these and that sometimes they go to renters and not to owners. I indicated but if they put the notice in the billing statements, then they could show that there was a good faith effort to give that notice, and what the judge did point out in his opinion is that in their billings, NPPD does send seasonal messages and various advertising material, so they can put that in the billing notice. But when it comes to giving notice to the customers of a proposed rate increase, they don't want to put that in the billing notice. They don't want to publish in a legal paper in all of the counties where they have customers. They want to publish it in the Columbus Telegram only, and then they want us to put into law, and this is the effect of that amendment that is in 628, if NPPD...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...publishes notice of a meeting where a rate increase will be considered, it is published in the Columbus Telegram, then that serves as notice to all the ratepayers in 87 counties in Nebraska, and remember what the federal judge said, that for the notice to comport with due process, it has to be transmitted in a way that has a reasonable likelihood of providing actual notice. This is NPPD's bill. NPPD lost a lawsuit. They are now asking the Legislature to put into law a definition of reasonable notice that the court has already said is not reasonable. This bill would make law what NPPD does now, and what NPPD does now has been ruled by the federal court to not give the reasonable notice required by due process.

SPEAKER BARRETT: Time. Senator Morrissey, followed by Senator Schmit.

SENATOR MORRISSEY: Thank you, Mr. Speaker and members. Pretty much all of my arguments have been stated by Senator Wesely and