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§ 434.1 Notice of discontinuance--time

(a) No steam corporation shall discontinue the supply of steam for nonpayment of bills rendered for service or for failure to post a required deposit until either:

(1) at least five days after written notice has been served personally upon the person supplied;

(2) at least eight days after mailing written notice in postpaid wrapper to the person supplied, addressed to such person at premises where service is rendered; or

(3) at least five days after the person supplied has either signed for or refused a registered letter containing written notice, addressed to such person at premises where service is rendered.

(b) If the person supplied has specified to the company in writing an alternate address for billing purposes, the notice authorized under paragraphs (2) and (3) of subdivision (a) shall be sent to such alternate address rather than to the premises where service is rendered.

§ 434.2 Notice of discontinuance--format

(a) Every notice indicating discontinuance of service shall:

(1) clearly indicate in nontechnical language:

(i) the reason for service discontinuance;

(ii) the total amount required to be paid by the customer to avoid discontinuance of service, indicating the amount for which the customer's account is in arrears or the required deposit, if any, which must be posted by the customer, or both;

(iii) a method whereby the customer may tender payment of the full sum due and owing, including any required deposit, to avoid the discontinuance of his service;

(iv) the availability of company procedures to consider customer complaints prior to discontinuance, including the address and phone number of the office of the steam company the customer may contact in reference to his account; and

(v) the earliest date on which discontinuance may be attempted; and

(2) have printed on the face thereof in a size type capable of attracting immediate attention the following:

"THIS IS A FINAL DISCONNECT NOTICE. TO AVOID
INCONVENIENCE, BRING THIS NOTICE TO THE
ATTENTION OF THE COMPANY WHEN PAYING THIS BILL."

(b) Where full compliance with subdivision (a) of this section is found by the commission to be infeasible or to impose an unreasonable burden upon the company, the commission may grant a waiver of the requirements of such subdivision upon approval by the commission of an alternate arrangement which accomplishes the basic purposes of this section.

§ 434.3 No discontinuance without verification of delinquent account

(a) No steam corporation shall discontinue service for nonpayment of bills rendered or for failure to post a required deposit unless:

(1) it shall have verified that payment has not been received at any office of the company or at any office of an authorized collection agent through the end of the notice period required by this Part; and

(2) it shall have verified on the day disconnection occurs that payment has not been posted to the customer's account as of the opening of business on that day, or, shall have complied with procedures established pursuant to section 434.4(b) of this Part.

(b) In the case of a company which serves a geographical area of this State involving more than six counties, the commission may grant a waiver of the requirements of paragraph (1) of subdivision (a) of this section upon approval by the commission of an alternate procedure for verification of payments which accomplishes the basic purposes of that paragraph.

§ 434.4 Rapid posting of payments in response to notices of discontinuance

Every steam corporation shall take reasonable steps to establish procedures to insure that any payments made in response to notices of discontinuance, when the customer brings the fact that such a notice has been issued to the attention of the company or its collection agents, shall either:

(a) be posted to the customer's account on the day payment is received; or

(b) be processed in some manner so that discontinuance will not occur.

§ 434.5 Days when discontinuance of service is not permitted

(a) No steam corporation shall discontinue service to any person for nonpayment of bills or for failure to post a required deposit on a Saturday, Sunday, public holiday, or day on which the main business office of the company is not open for business. For purposes of this section, public holiday shall refer to those holidays enumerated in the General Construction Law.

(b) No steam corporation or municipal steam corporation shall discontinue service to any residential customer for nonpayment of bills or for failure to post a required deposit on a Friday, or on the day preceding a day on which the main business office of the company is not scheduled to be open for business, or the day immediately preceding a public holiday. No such corporation shall discontinue service to any residential customer for nonpayment of bills or for failure to post a required deposit during a two-week period encompassing Christmas and New Year's Day.

§ 434.6 No additional notice required when payment by check is subsequently dishonored

Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance shall not constitute payment of the customer's account, and no steam corporation shall be required to issue additional notice prior to discontinuance.

§ 434.7 Discontinuance of service to entire multiple dwellings

(a) No steam corporation shall discontinue service to an entire multiple dwelling (as defined in the Multiple Dwelling Law or the Multiple Residence Law) where the owner, person, firm or corporation to whom or which the last preceding bill has been rendered, or from whom or which the steam corporation has received payment therefor, has failed to pay such utility bills, until it has complied with the following procedure:

(1) The steam corporation must give 15 days' written notice of its intention to so discontinue by personally serving such notice on the owner of the premises affected or on the person, firm, or corporation to whom or which the last preceding bill was rendered, or from whom or which the utility has received payment therefor, and on the superintendent or

other person in charge of the building, if it can be readily ascertained that there is such superintendent or other person in charge; or

(2) The steam corporation must give 18 days' written notice to the owner, person, firm or corporation specified in paragraph (1) of this subdivision if such notice is mailed in a postpaid wrapper to the address of such persons, firm or corporation.

(3) In addition to the notice prescribed by paragraphs (1) and (2) of this subdivision, 15 days' written notice shall be posted in the public areas of such multiple dwelling, and 18 days' notice shall be mailed to the "Occupant" of each unit in that multiple dwelling, to the local health officer and director of the social services district for the political subdivision in which the multiple dwelling is located; if the multiple dwelling is located in a city or village, to the mayor thereof, or if there be none, to the manager; or, if the multiple dwelling is located in a town, then to the town supervisor; and to the county executive of the county in which the multiple dwelling is located, or if there be none, then to the chairman of such county's legislative body. Notice to mayors, managers, town supervisors, county executives, and chairmen of county legislatures may be mailed to the persons specified therein or to their designees. Notice to health officers, directors of social services, mayors, managers, supervisors, county executives and chairmen of county legislatures shall be repeated not more than four working days nor less than two working days prior to such discontinuance.

(4) Whenever a notice of intention to discontinue steam service has been made pursuant to the provisions of this section and obligations owed the steam corporation have been satisfied, the steam corporation shall notify, in the same manner as it gave such notice of intention, the occupant of each unit that the intention to discontinue steam service no longer exists.

(b) Notwithstanding the provisions contained in subdivision (a) of this section, no steam corporation shall discontinue services to a multiple dwelling, where the owner, person, firm or corporation responsible for making payment fails to pay utility bills, as long as occupants of such multiple dwellings continue to make timely payments for service in accordance with procedures filed by the utility and approved by the Public Service Commission. All notices referred to in subdivision (a) of this section shall contain the intended date of discontinuance of service and a utility contact, including a telephone number, who will advise occupants of the amount due for steam service and who will arrange meetings with occupants to attempt to work out a mechanism for avoiding discontinuance of service in the event that the owner continues to fail to make requisite payments or arrangements for such payments. The notice shall also refer to the provisions contained in *section 235-a of the New York Real Property Law* authorizing occupants to set-off, against their rent, payments to utilities in such circumstances.

(c) A steam corporation, following the procedure outlined in subdivision (b) of this section, may require occupants in a multiple dwelling to pay no more than the current steam charges incurred by the owner, person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefor. A current charge for purposes of this section means the amount properly billed the owner, etc., for steam used during the billing period covered by the first bill rendered on or after the date when the disconnect notice is issued. The current charges will not include any arrears for earlier billing periods that may appear on such a bill.

(d) If occupants in a multiple dwelling find they are unable to reach an agreement with the utility to avoid discontinuance of service, they may contact the Consumer Service Section of the commission's Power Division. After such a request is received, a representative of the Consumer Service Section of the Power Division will attempt to work out such an agreement and will, if necessary, arrange a meeting with occupant representatives, the utility, and the owner, person, firm or corporation responsible for making payment for steam service; provided, however, that such a meeting will be required only if the Consumer Service Section receives a written petition signed by at least 25 percent of the occupants in a multiple dwelling.

(e) The Consumer Service Section may stay a threatened disconnection of service to an entire multiple dwelling where it concludes that good faith efforts are being made by the occupants to arrange for the payment of current steam bills.

(f) Whenever an owner of a multiple dwelling, or the person, firm or corporation responsible for making payment for steam service, fails to pay two consecutive bills for utility service by the time the third bill has been prepared, the utility must notify the commission within 15 days that it has invoked the procedures outlined in subdivisions (a) and (b) of this section. Unless otherwise authorized, the notification should be in the form of a semi-monthly report filed with the Consumer Service Section. Such report should be cumulative, specify the total amount due for each overdue account, the

period of arrearage, and indicate if a notice of discontinuance has been sent. If these reports demonstrate a need for changes in collection procedures, the Consumer Service Section shall advise the commission.

(g) Sections 434.3 through 434.6 of this Part shall be applicable with respect to the discontinuance of service to entire multiple dwellings.

§ 434.8 Billing disputes

(a) Every steam corporation shall establish procedures whereby any complaint filed with such corporation by any customer thereof in regard to any bill for service rendered or any deposit required will be promptly investigated in an appropriate and fair manner, with the result of such investigation being promptly reported to the complaining customer. Such procedures shall allow the acceptance and processing of complaints submitted in simple manner and form. Regardless of whether a notice of discontinuance has previously been sent, the utility's procedures shall provide that pending the utility's investigation it shall not discontinue service or issue a notice of discontinuance; provided, however, the consumer may be required to pay the undisputed portion of a disputed bill or deposit to prevent discontinuance or the issuance of a notice of discontinuance.

(b) If, after the completion of such an investigation, the utility determines that the disputed service has been rendered, or that the disputed charge or deposit is proper, in whole or in part, the utility may require the full bill or deposit or the appropriate portion thereof to be paid; in such event, appropriate notice of the determination shall be given to the customer, and where notice of discontinuance of service has previously been sent, or is served with the determination, such notice shall include a statement advising the customer of the availability of the commission's complaint handling procedures. The utility's procedures may provide for discontinuance of service if the customer fails to pay such required amount after receipt of proper notice, provided that a customer's service will not be discontinued until at least five days after notice of the utility's determination, where personal service is made upon the person supplied, or at least eight days after mailing of such a notice, and provided further that no discontinuance may occur if so precluded by the commission pursuant to section 11.2(d) of this Title.

(c) The utility's procedures shall provide that, where the complaint procedures of the commission have been invoked and it is determined that the disputed service has been rendered, or that the disputed charge or deposit is proper, in whole or in part, a customer's service will not be discontinued for failure to pay the amount found appropriate until at least 15 days after notice of the commission's determination.

(d) The procedures required to be established under this section shall be filed with the commission for review. The commission shall be advised of any substantial changes in such procedures 30 days prior to their proposed implementation to permit commission review.

§ 434.9 Publicizing complaint procedures

(a) Every steam corporation shall, by a notice accompanying a regular bill or otherwise, advise each of its customers annually, unless otherwise directed by the commission, of the procedures available to the customer to register complaints in regard to service or disputed bills. Such notice shall clearly state the means by which a complaint can be made to the company and shall also advise the customer that, if after contacting the company the customer remains dissatisfied, he may contact the New York State Public Service Commission. Such notice shall further state that the Public Service Commission has a staff available to give assistance in such matters, and shall also specify an appropriate address of the Public Service Commission.

(b) Prior to circulating the notice required by subdivision (a) of this section, each utility shall submit to the commission for its approval the form of such notice and the intended program for its distribution.

§ 434.10 Hardship procedures

Each and every steam corporation shall file with the commission and make available for public inspection such corporation's detailed procedures for handling hardship situations where consumers are threatened with disconnection of service. The detailed procedures to be filed under this section shall include the special procedures during the cold weather

seasons required by sections 434.11 and 434.12 of this Part. Such corporations shall observe their filed procedures in conducting any disconnection activity.

§ 434.11 Special procedures during cold weather periods

(a) Not later than August 15, 1978, each and every steam corporation shall develop methods to identify all residential households in its service territory which require a steam service for heating the premises or operating a heating system. Thereafter, such corporation shall maintain the capability of identifying such residential accounts for the purposes of this section.

(b) During the period beginning November 1st of each year and ending April 15th of the following year, each steam corporation shall observe, at a minimum, the following procedures with respect to residential customers whose steam service is necessary to heat the premises or operate a heating system (as used in this section, the term customer means a residential customer whose steam service is necessary to heat the premises or operate a heating system and includes all customers residing in dwellings not included under section 116 of the Public Service Law):

(1) No such corporation shall terminate service to any customer unless, after service of a final notice of discontinuance, the corporation has attempted to communicate with the customer, or another person, 18 years of age or older, who resides with the customer at the customer's residence. At a minimum, the attempt at personal contact shall include one visit at the premises by field personnel during normal working hours and, in the event that personal contact is not achieved, one visit by field personnel during reasonable nonbusiness periods (6 p.m. - 9 p.m. on weekdays or 9 a.m. - 5 p.m. on Saturdays, Sundays and holidays). If communication with the person contacted is not possible because of an apparent language barrier, the corporation shall take steps to assure communication before discontinuance. During the personal contacts, the corporation's representatives shall fully explain the reasons for discontinuance and shall attempt to ascertain whether a serious impairment to human health may result.

(2) For the purposes of this Part, a serious impairment to human health is indicated if a customer or other person residing in the premises appears to be seriously impaired and may, because of mental or physical problems, be unable to manage his or her own resources, carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others. Indicators of serious impairment to human health include but are not limited to:

- (i) age, infirmity or mental incapacitation;
- (ii) use of life support systems, such as dialysis machines or iron lungs;
- (iii) serious illness;
- (iv) physical disability, including blindness and limited mobility; and
- (v) any other factual circumstances which indicate severe or hazardous health situations.

The above criteria are general standards and the corporation's field personnel must be trained to exercise discretion, sound judgment and common sense in ascertaining whether a serious impairment to human health exists. Doubts should be resolved in favor of continued service.

(3) No such corporation shall terminate service for nonpayment where a customer or other person residing in the premises exhibits a serious impairment to human health, as described in paragraph (2) of this subdivision, unless:

(i) the corporation notifies the local social services commissioner orally, and within five days in writing, on forms prescribed or approved by the commission (Appendix 16 contains the suggested form) that the customer or other person residing in the premises exhibits a serious impairment to human health; and

(ii) the local social services commissioner, after an investigation, informs the corporation that the health-impairing condition does not exist or is not serious, or that an alternative means for protecting the person's health has been devised.

The corporation may exercise its own discretion with respect to terminating service to the customer in the event it does not receive an oral or written report from the local social services commissioner within 15 business days after the written referral of the matter by the corporation to the commissioner.

(4) If such a corporation terminates steam service to a customer because of nonpayment, and the customer or a person 18 years of age or older residing on the premises was not personally contacted by the corporation before termination of

service and has not communicated with the corporation for the purpose of requesting reconnection before 12 noon on the day following termination of service, the corporation shall immediately attempt to determine, by onsite inspection, direct personal contact at the premises with the residential customer or other adult person, or other reasonable measures, whether there is continuing occupancy and whether a serious impairment to human health, as described in paragraph (b)(2) of this section, exists. If the corporation determines that a customer or other person residing in the premises faces impairment to his or her health, it shall immediately restore the steam service and the requirements of paragraph (b)(3) of this section shall apply. If the corporation is unable to obtain personal contact with the customer or an adult residing on the premises, and does not have reasonable grounds to believe that the customer has vacated the premises, it shall immediately refer the name and address of the customer to the local commissioner of social services, in accordance with the procedures set forth in paragraph (b)(3) of this section.

(5) Each such corporation shall designate an employee who will serve as a liaison with local social services departments.

(6) Each such corporation shall file with the commission for its review the procedures to be followed by the corporation's personnel in complying with these special procedures.

(c) If such corporation decides to disconnect steam service to a residential customer because it has established that the meter or service laterals have been tampered with or a theft of service has occurred, it shall attempt to determine, according to the procedures set forth in paragraphs (b)(1) and (2) of this section, whether a serious impairment would result from service disconnection. If such corporation ascertains that a serious impairment to human health would result, it shall observe the procedures set forth in paragraphs (b)(3) and (4) of this section; provided, however, that the requirement of continued service shall not apply in the event it is impractical for such corporation to eliminate any unsafe condition. In any case where a serious impairment is found and the corporation terminates service to preclude the continuation of an unsafe condition, it shall specially notify the local social services commissioner on the same day service is disconnected and request an immediate consideration of the case.

Comment: If a utility discovers a meter tampering or theft situation and determines that a serious impairment exists, it should continue service, pending DSS review, provided that service can be rendered safely. For example, if a utility discovers that the meter of a "locked account" is advancing, it should, in most circumstances, be able to continue service in a safe manner. In other theft cases, particularly those involving gas service, the need for rendering the condition safe may preclude the continuation of service. For example, if a gas utility discovers unsafe piping, an unsafe meter bypass, or substantial damage to the meter, termination may be the best method of eliminating the unsafe condition. If the utility cannot readily repair the unsafe condition or, in the case of a gas company, cannot obtain access to the pilot lights (which would have to be relit), immediate restoration of service would not be practical. The utility should specifically note, in its referrals to DSS, those cases where heat-related service is not restored or continued so that DSS may give immediate attention to them.

§ 434.12 Survey of residential customers previously disconnected for nonpayment or theft of service

Not earlier than September 1 nor later than November 1 of every year, each steam corporation shall conduct a survey of all former residential customers whose steam service was used for heating the premises or operating a heating system, was terminated for nonpayment, meter or service lateral tampering, or theft of service during the 12-month period ending on November 1 of that year, and has not been restored. The purpose of the survey is to determine whether a continued lack of service may expose the former customer or other person residing in the premises to a serious impairment to human health as defined in subdivision (b) of section 434.11 of this Part. If the corporation determines that a former residential customer or other person residing in the premises may be exposed to a serious impairment to human health as defined in subdivision (b) of section 434.11 of this Part, it shall restore the steam service immediately, unless the customer refuses to permit such corporation to restore service or, in theft or tampering situations, unless it is impractical for the corporation to eliminate an unsafe condition, and the requirements of subdivision (b) of section 434.11 of this Part shall apply. If the corporation is unable to obtain personal contact with the customer or an adult residing on the premises, or the customer refuses to permit service restoration, it shall immediately refer the name and address of the former customer to the local commissioner of social services in accordance with the procedures set forth in paragraph (b)(3) of section 434.11 of this Part, unless the corporation has reasonable grounds to believe that the former customer has permanently vacated the premises.

§ 434.13 Voluntary third-party notice prior to discontinuance of service

(a) Each and every steam corporation and municipal steam corporation shall permit a residential consumer to designate a third party to receive a copy of every notice of discontinuance of service sent to such residential consumer, provided that such third party indicates in writing his or her willingness to receive such notices.

(b) Such corporations shall notify residential consumers annually of the availability of the third-party notice procedure.

§ 434.14 Installment plans for residential customers

No such corporation shall terminate service to a customer because of the customer's failure to pay for service unless the corporation has first offered a monthly installment plan that is just and equitable. Each corporation must offer a just and equitable monthly plan to all customers whose service has been disconnected for nonpayment. To the extent practicable, the monthly installment plan should be based on the customer's ability to pay, past payment history, the amount of indebtedness, and the availability of other resources. The monthly installment plan should require a customer to pay current bills and a portion of past indebtedness. A new monthly installment plan need not be offered to a customer who is in default on an existing one.