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## PART 14

### RULES GOVERNING THE PROVISION OF SERVICE BY CERTAIN WATER CORPORATIONS TO RESIDENTIAL CUSTOMERS

(Statutory authority: Public Service Law, §§ 31-50)

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.SO DOC 16A-14.1 NYCRR

#### Section 14.1 Purpose.

This Part sets forth the commission's rules implementing the Home Energy Fair Practices Act as it applies to residential customers of waterworks corporations with annual gross revenues in excess of \$250,000 (L. 1986, ch. 176). That act establishes as State policy that the continued provision of water service to such residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest. Every right and duty under this Part imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. The provisions of this Part must be interpreted so as to fulfill its purpose and policy.

.SO DOC 16A-14.2 NYCRR

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#### 14.2 Applicability of rules and definitions.

##### (a) Applicability.

- (1) This Part governs the rights, duties and obligations of every waterworks corporation with annual gross revenues in excess of \$250,000 subject to the jurisdiction of the commission by virtue of article 4-B of the Public Service Law, their residential customers and applicants for residential service, regardless of any other conflicting commission rule or order.
- (2) Nothing in this Part modifies the commission's rules or orders regarding the provision of water service to nonresidential customers, or residential customers of waterworks corporations with annual gross revenues equal to or less than \$250,000.

- (b) Definitions. The following words and terms when used in this Part have the following meanings:
- (1) An access controller is a party known to a utility to be in control of access to the metering equipment at a customer's premises and to have an active account of its own with the utility.
  - (2) An actual reading is one obtained by a utility employee from the meter or from a device which receives a reading transmitted from the meter itself.
  - (3) An applicant is a person who has made a request or has had a request made by a third party on his or her own behalf, for water service for his or her own residential use.
  - (4) Arrear are charges for which payment has not been made more than 20 calendar days after payment was due. A payment is considered to be made on the date when it is received by the utility or one of its authorized agents. Payment is due whenever specified by a utility on its bill, as long as the date is not before the bill is hand-delivered to the customer, or less than three calendar days after the bill is mailed.
  - (5) A backbill is any bill or any portion of a bill, other than a levelized bill, which represents charges for service that was actually delivered to the customer's premises during a period before the current billing cycle, which was not previously billed.
  - (6) A blind person is a person who has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees, shall be considered as having a central visual acuity of 20/200 or less.
  - (7) A business day is any Monday through Friday when a utility's business offices are open.
  - (8) A cold weather period is that period of time beginning November 1st of each year and ending April 15th of the following year.
  - (9) The commission is the New York State Public Service Commission.
  - (10) The Consumer Services Division is the Consumer Services Division of the New York State Department of Public Service.
  - (11) Current charges, as used in section 14.7 or 14.8 of this Part, refer to the amount properly billed to a party responsible for service to a multiple dwelling, as defined in paragraph (17) of this subdivision, or a two-family dwelling, as defined in paragraph (21) of this subdivision, for the billing period covered by the first bill rendered on or after the date the required notice is posted. Current charges do not include any arrears for earlier billing periods.
  - (12) A deferred payment agreement or payment agreement is a written agreement for the payment of outstanding charges over a specific period of time.
  - (13) A delinquent customer is a customer who has made two or more consecutive late payments, as defined in paragraph (16) of this subdivision, within the previous 12 months.
  - (14) A disabled person is a person with a physical, mental, or medical impairment resulting from anatomical, physiological or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, as defined in the Human Rights Act (Executive Law, section 292(21)); or a person who is unable because of mental or physical problems to manage his or her own resources or to protect himself or herself from neglect or hazardous situations without the assistance of others.
  - (15) Heat-related service is water service which is necessary for the on-going operation of a customer's primary heating system.
  - (16) A late payment is any payment made more than 20 calendar days after the date payment was due, in accordance with paragraph (4) of this subdivision.
  - (17) A multiple dwelling is a dwelling designed to be occupied by three or more families living independently of each other, as defined in the Multiple Dwelling Law or Multiple Residence Law.
  - (18) A residential customer is any person who, in accordance with an application for service made by such person or a third party on his or her behalf, is supplied with water service by a utility at a premises where such service is used primarily for his or her residential purposes. The word customer, when used alone in this Part, refers only to a residential customer.
  - (19) A seasonal, short-term or temporary customer is a customer who applies for and/or receives utility service periodically each year, intermittently during the year, or for a period of time up to one year. (20)

Tampered equipment is any service-related equipment that has been subjected to unauthorized interference that has changed or inhibited the accurate measurement of water consumption or that has been connected without authorization after a utility has physically disconnected service.

- (21) A two-family dwelling is a building designed to be occupied exclusively by two families living independently of each other, where water service is not billed separately for each unit.
- (22) A utility is any waterworks corporation, as defined in section 2 of the Public Service Law, having annual gross revenues in excess of \$250,000.
- (23) Utility deficiency is:
  - (i) any action or inaction by the utility or one of its authorized agents that does not substantially conform to the rules and regulations of this Title, the utility's tariff; or
  - (ii) the failure of metering equipment to accurately record service, unless a customer's culpable conduct caused or contributed to such failure.

## .SO DOC 16A-14.3 NYCRR

### 14.3 Applications for residential service.

#### (a) Extension of service.

- (1) A utility must provide service to any applicant as soon as reasonably possible, but no later than five business days after receipt of an accepted oral or written application for service or such later time as may be specified by the applicant, except:
  - (i) where prevented by labor strikes or other work stoppages;
  - (ii) where precluded by consideration of public safety;
  - (iii) where precluded by physical impediments including:
    - (a) poor weather conditions;
    - (b) inability to gain access to premises;
    - (c) incomplete construction of necessary facilities by the applicant or inspection and certification of such facilities by the appropriate authorities; or
    - (d) incomplete construction of necessary facilities by the utility.
- (2) A utility must make reasonable efforts to eliminate or correct conditions over which it has control that prevent extension of service and must attempt to complete construction of any necessary facilities with due diligence.
- (3) As a prerequisite to accepting a party as a customer and providing service, a utility may require the party to:
  - (i) make full payment or enter into a payment agreement under section 14.10 of this Part for all amounts due and payable which are not either the subject of a pending billing dispute under section 14.19 of this Part, or covered by an existing payment agreement, including:
    - (a) residential service provided and billed in accordance with section 14.15 of this Part to prior accounts in the applicant's name or for which the applicant is legally responsible;
    - (b) other billed tariff fees, charges or penalties; and
    - (c) a deposit, if requested by the utility, as long as such deposit is in accordance with section 14.11 of this Part;
  - (ii) fulfill any applicable requirements of Parts 501 and 502 of this Title, regarding main extensions and service pipes; and
  - (iii) comply with the utility's tariff, and any applicable State, city or local laws, ordinances or regulations.
- (4) A utility must provide service to any accepted applicant whose application for service was previously denied, unless prevented by those circumstances listed in paragraph (1) of this subdivision:
  - (i) as soon as reasonably possible, but no later than two business days after the requirements of paragraph (3) of this subdivision are met, or such later time as may be specified by the applicant; or
  - (ii) within 24 hours, if required by the commission or its designee.
- (5) A customer moving within the service territory of a utility and requesting service within 60 calendar days of the closing of the customer's prior account is eligible to receive service at the new location, in

accordance with this section, and such service must be considered a continuation of service in all respects, with any existing payment agreement honored; provided, however, that such customer's prior service had not been terminated for nonpayment at the time of such request.

(b) Service application.

- (1) An application for service may be made either orally or in writing.
- (2) A utility may require an applicant to complete a written application for service only if:
  - (i) service to the preceding customer at the premises to be served was terminated for nonpayment within the prior 12 months or the current account is subject to a final notice of termination;
  - (ii) there is evidence that service has been supplied through tampered equipment;
  - (iii) the meter has recorded usage during a period within the previous 12 months when there was no customer; or
  - (iv) the application is made by a third party for the party who would receive service.
- (3) If a written application is not required as a prerequisite to providing service, an oral application for service will be considered complete when the applicant provides his or her name, address and, if the applicant has a prior account, either the address or account number, and answers questions relevant to identifying the applicant's use of water on the premises, including whether the service will be used primarily for residential purposes.
- (4) A written application for service will be considered complete when information has been provided as required under paragraph (3) of this subdivision, along with proof of the applicant's identity and responsibility for the water bills for the premises, through submission of appropriate documents. Where a third party applies for service, the third party must submit proof of his or her identity and a written authorization from the applicant. All submitted documents become part of the application.
- (5) A utility must make reasonable efforts to contact, either by telephone or in person, any applicant who submits an incomplete application, within one business day of receipt of the application, stating the information and/or documents that must be submitted in order for the application to be considered complete.

(c) Denial of application.

- (1) A utility must make reasonable efforts to immediately contact, either by telephone or in person, any applicant whose application is being denied.
- (2) A utility may not deny an application for service unless a written notice was either delivered personally to the applicant or sent to the applicant's current address or any alternative mailing address provided in the application, within three business days of receipt of the application for service. An application for service not denied within three business days of receipt is considered accepted.
- (3) The denial notice must:
  - (i) state the reason(s) for the denial;
  - (ii) specify what the applicant must do to qualify for service; and
  - (iii) advise the applicant of the right to an investigation of the denial by the commission or its designee if the applicant considers the denial to be without justification, and state the address and telephone number of the commission.
- (4) Every utility must maintain, for at least 12 months, service applications that are denied, and the corresponding denial notice.

- (d) Penalty. If a utility fails to provide service to an applicant within the time required by this section, the utility must pay to the applicant \$25 per day for each day or portion of a day that service is not supplied, unless the commission or its designee determines that the utility had good cause for not providing service within the required time.

#### 14.4 Termination of residential service.

##### (a) Conditions for termination.

- (1) Except as provided in section 14.17 of this Part and paragraph (2) of this subdivision, a utility may terminate service to a customer only if it provides advance final notice of the termination and fulfills all other requirements of this section when the customer:
  - (i) fails to pay any tariff charges that reflect service used during the preceding 12 months, for which a written bill in conformance with section 14.15 of this Part has been sent;
  - (ii) fails to pay any tariff charges that reflect service used before the preceding 12 months, for which a written bill in conformance with section 14.15 of this Part has been sent, in any of the following situations:
    - (a) when there was a billing dispute during the preceding 12-month period;
    - (b) when there was excusable utility delay;
    - (c) when the customer's culpable conduct caused or contributed to the delay in billing; or
    - (d) when the changes are necessary to adjust estimated bills;
  - (iii) fails to pay amounts due under a payment agreement;
  - (iv) fails to pay, or agree in writing to pay, equipment and installation charges relating to the initiation of service; or
  - (v) fails to pay a required deposit, if in accordance with section 14.11 of this Part.
- (2) A utility must not terminate service for nonpayment of bills to any person it knows to be receiving public assistance, if payment for such service is to be made directly to the utility by the department of social services or the local social services official.

##### (b) Final termination notice.

- (1) A final termination notice must state:
  - (i) the earliest date termination may occur;
  - (ii) the reasons for termination, including the total amount the customer must pay, and how termination may be avoided;
  - (iii) that utility procedures are available for considering complaints before termination, including the address and telephone number of the appropriate utility office;
  - (iv) that commission procedures are available for considering customer complaints when a customer is not satisfied with the utility's handling of the complaint, including the address and telephone number of the appropriate commission office;
  - (v) a summary of the protections available under this Part, and a notice that any customer eligible for such protections should contact the utility;
  - (vi) that it is a final termination notice which should be brought directly to the attention of the utility when the bill is paid;
  - (vii) that payment of the charges with a check that is subsequently dishonored may result in termination of service without an additional final termination notice, if applicable;
  - (viii) that at the time the utility's representative goes to the premises to terminate service, the representative may require any payment to be made with cash, certified check or money order, if the customer has, within the last 12 months, paid with a check that was dishonored;
  - (ix) any charge for reconnection; and
  - (x) that if the customer is a recipient of public assistance, it is possible that assistance may be available from a local social services office.
- (2) A final termination notice must not be issued until at least 20 calendar days after the date payment was due.
- (3) A final termination notice must not be issued for nonpayment of disputed charges while a complaint is pending before the utility or the commission as provided in section 12.3 of this Title. Nothing in this Part prevents the utility from issuing such notice for nonpayment of undisputed charges.

##### (c) Physical termination of service.

- (1) A utility may not terminate service under this section until at least:
    - (i) 15 calendar days after a final termination notice has been given personally to the customer; or
    - (ii) 18 calendar days after a final termination notice has been mailed to the customer at the location where service is rendered, or to an alternative address, in which case paragraph (2) of this subdivision must be complied with.
  - (2) If an alternative address for mailing purposes has been previously provided to a utility, the utility must not terminate service under this section until at least 18 calendar days after a final termination notice has been mailed to the customer at the alternative address. If the utility still intends to terminate service as scheduled, the utility must mail notice of the scheduled termination to the premises where service is rendered 10 calendar days after the final termination notice was mailed to the alternative address.
  - (3) A utility may terminate service only between the hours of 8:00 a.m. and 4:00 p.m., on Mondays through Thursdays, provided that such day or the following day is not:
    - (i) a public holiday as defined in the General Construction Law;
    - (ii) a day the main business office of the utility is closed; or
    - (iii) a day the offices of the commission are closed.
  - (4) A utility may not terminate service unless:
    - (i) it has verified that payment has not been received at any office of the utility or at any office of an authorized collection agent through the end of the notice period required by this Part; and
    - (ii) it has verified on the day termination is scheduled that payment has not been posted to the customer's account as of the opening of business on that day, or has complied with procedures established under paragraph (d) (2) of this section.
  - (5) A utility may not terminate service more than 60 calendar days after issuance of the final termination notice unless it has, during that time, issued a new termination notice that complies with paragraph (b) (1) of this section or has updated the original notice to include the current arrears.
  - (6) A utility may not terminate service while a complaint is pending before the utility or the commission and for 15 calendar days after resolution by the utility or by the commission or its designee, for nonpayment of the disputed charges as provided in section 12.3 of this Title. Nothing in this Part prevents the utility from terminating service for nonpayment of undisputed charges.
  - (7) A utility may not terminate service during a two-week period encompassing Christmas and New Year's Day.
- (d) Rapid posting of payments. Every utility must establish and implement written procedures to ensure that any payments made in response to a final termination notice, when the customer brings the fact that such a notice has been issued to the attention of the utility or its authorized agents:
- (1) are posted to the customer's account on the day payment is received; or
  - (2) are processed in some manner so that termination will not occur.
- (e) Payment at the time of termination of service.
- (1) If a customer claims, at the time that termination for nonpayment is to take place, that payment has already been made and produces a written business record of payment, or claims that there is a complaint pending before the utility or the commission with regard to the charges demanded, the utility's field representative must make a reasonable effort to verify this information with a utility office representative and must not terminate service for nonpayment of any verified disputed amount.
  - (2) At the time of termination, if payment of the full amount that forms the basis for a scheduled termination is offered, or if a customer agrees to sign a payment agreement in accordance with section 14.10 of this Part and offers payment of any required downpayment, the utility representative must not terminate service. The utility representative may either accept payment or allow the customer an extension of time of not less than one business day to go to a business office to make payment or arrange for payment. However, if the customer fails to make payment or arrange for payment within the specified time, the utility may terminate service without further notice.

- (3) If a customer has, within the last 12 months, paid for service with a check that was dishonored, the utility has the right to accept only cash, certified check, or money order as payment from that customer under paragraph (2) of this subdivision.
  - (4) Whenever payment is made at the time of termination, the utility's field representative must provide the customer with a receipt showing the date, the account number, the amount received, the form of the payment and either the name or identification number of the utility representative.
- (f) Dishonored checks. Receipt of a subsequently dishonored check, in response to a termination notice, is not payment of a customer's account and the utility is not required to issue additional notice before termination, as long as the final termination notice warns the customer of this, in accordance with subparagraph (b) (1) (vii) of this section.
- (g) Applicability. Nothing in this section affects a utility's right to suspend, curtail or disconnect service:
- (1) when there is no customer and service is being provided through tampered equipment;
  - (2) when there is no customer and the utility has provided advance written notice to the occupant, either by posting or mailing not more than 30 nor less than 10 calendar days before disconnection, stating:
    - (i) that it intends to disconnect service unless the responsible party applies for service and is accepted as a customer; and
    - (ii) the location of the nearest utility business office where application can be made; or
  - (3) as permitted under section 14.17 of this Part.

#### .SO DOC 16A-14.5 NYCRR

#### 14.5 Termination of residential service-special procedures.

##### (a) General.

- (1) This section provides special protections regarding the termination and reconnection of service in cases involving medical emergencies, the elderly, blind or disabled, and heat-related service during the cold weather period.
- (2) If any communication required by this section is not possible because of an apparent language barrier, the utility must take steps to assure communication before termination.
- (3) For purposes of this section, when a utility is required to make a diligent effort to contact personally an individual, the utility must, at a minimum:
  - (i) attempt to call such person once during normal business hours and if unsuccessful, twice during reasonable nonbusiness hours (6:00 p.m. - 9:00 p.m. on weekdays or 9:00 a.m. - 5:00 p.m. on Saturdays and Sundays), if there is a telephone; and
  - (ii) make an onsite personal visit, if there is no telephone or if telephone contacts are unsuccessful.
- (4) During any continuation of service under this section, the customer remains responsible for payment of service and must make reasonable efforts to pay charges for such service.
- (5) In all contacts with customers entitled to the protections under this section, where there remains a threat of termination or termination has already occurred, the utility must notify the customer that the commission's designees are available for assistance and provide the customer with the commission's telephone number.

##### (b) Medical emergencies.

- (1) Utility's obligations. A utility must not terminate or refuse to restore service to a residence when a medical emergency exists. A medical emergency exists when a resident of a customer's premises suffers from a serious illness or medical condition that severely affects his or her well-being, as certified by a medical doctor or local board of health in accordance with this subdivision.
- (2) Written certification. Written certification must:
  - (i) be submitted on stationery of a medical doctor or local board of health, and be signed by the medical doctor or an official of the local board of health qualified to make a medical judgment;

- (ii) state the name and address of the certifying medical doctor or local board of health, and the doctor's State registration number;
  - (iii) state the name and address of the ill person; and
  - (iv) include an affirmation that the absence of water service will aggravate an existing medical emergency at a customer's premises.
- (3) Procedure for initial certification.
- (i) Initial certification of a medical emergency may be made either in writing or by telephone by a medical doctor or local board of health.
  - (ii) Initial certification is effective for 30 calendar days from the date the utility receives it, as long as written certification is provided to the utility within five business days of any certification made by telephone.
  - (iii) Certification made only by telephone is effective for five business days from the date the utility receives it.
  - (iv) Within five business days of receipt of written certification, the utility must provide the customer with a written notice that must:
    - (a) state that the utility received such certification and that the certification is effective for 30 calendar days;
    - (b) advise the customer in detail of the procedures required for renewal of certification under paragraph (4) of this subdivision; including specifically a statement that if the customer does not renew the certification before the 30-day period expires and arrangements for payment are not made, the utility may proceed with termination; and
    - (c) be accompanied by a form to be completed showing assets, income and expenses.
- (4) Procedure for renewal of certification.
- (i) If the medical emergency is likely to continue beyond the expiration of any written certification, the certification may be renewed, provided that, before the expiration of the initial certification:
    - (a) a medical doctor or official of the local board of health submits a new written certification that also states the expected duration of the medical emergency and explains the reason the absence of service would aggravate the medical emergency; and
    - (b) the customer demonstrates an inability to pay charges for service, as documented by a form showing assets, income and expenses.
  - (ii) The utility must, within five calendar days of submission of the necessary information, determine whether the customer's assets and current income are insufficient to pay charges for service, considering other necessary and reasonable expenses of the customer.
  - (iii) If the utility determines that a customer has not demonstrated an inability to pay charges for service, it must provide the customer with written notice of the determination made under subparagraph (ii) of this paragraph and the customer's right to a review of the determination by the commission's designee.
  - (iv) If the utility determines that a customer has demonstrated an inability to pay charges for service and a new written certification has been submitted, the utility must inform the customer that certification has been renewed, and how long it will be in effect.
  - (v) A renewed certification remains in effect for 30 calendar days, provided that in cases certified as chronic by a medical doctor or official of the local board of health, the renewed certification remains in effect for 60 calendar days. In such cases, a customer may request that the commission's designee approve a longer period for the written certification to remain in effect, and the commission's designee may approve such longer period, stating specific conditions to be met by the customer.
- (5) Termination of service. A utility may only terminate service to a customer who has submitted a certification of medical emergency after:
- (i) written notice has been provided to the customer of the utility's determination either that the certification of medical emergency is no longer in effect or that the customer is able to pay charges for service;
  - (ii) any review of the utility's determination by the commission's designee has been completed; and

(iii) the requirements of section 14.4 of this Part have been complied with.

(c) Customers who are elderly, blind or disabled.

(1) Utility's obligations. A utility must not terminate or refuse to restore service to a customer where the customer and any other remaining residents of the households are known to or identified to the utility to be blind, disabled, 62 years of age or older, or 18 years of age or under, without complying with the procedures in this subdivision.

(2) Procedure before termination of service.

(i) A utility must make a diligent effort to contact personally an adult resident at the customer's premises at least 72 hours before termination of service to attempt to create a plan that would avoid termination and arrange for payment.

(ii) Where efforts at personal contact are unsuccessful or where a utility and a customer are unable to create a plan, the utility must notify the local department of social services of the name and address of the customer and the date of termination so that social services may ascertain if the customer is eligible for any assistance. The utility must continue service for at least 15 business days after providing this notice, unless notified by the local department of social services that other arrangements have been made.

(3) Procedures after termination of service.

(i) In cases where service has been terminated and the utility is later notified that the customer should have received the protections under this subdivision, the utility must:

(a) make a diligent effort to contact personally an adult resident at the customer's premises, within 24 hours of such notification, to attempt to create a plan that would restore service and arrange for payment of bills; and

(b) where efforts at personal contact are unsuccessful or where the utility and the customer are unable to create a plan, notify the local department of social services of the name and address of the customer and the date of termination so that social services may ascertain if the customer is eligible for any assistance.

(ii) In cases where a utility has terminated service consistent with the provisions of paragraph (2) of this subdivision, the utility must make a diligent effort to contact personally an adult resident at the customer's premises within 10 calendar days after termination, to determine whether alternative arrangements have been made for the provision of service and, if none have been made, attempt to create a plan that would restore service and arrange for payment.

(d) Special procedures during cold weather periods for premises with heat-related service.

(1) Utility's obligations.

(i) During cold weather periods, before terminating premises with heat-related service, a utility must make attempts to determine whether a resident may suffer serious impairment to health or safety as a result of termination, in accordance with the procedures set forth in paragraph (2) of this subdivision. Doubts as to whether a person may suffer serious impairment to health or safety as a result of termination must be resolved in favor of making such a finding.

(ii) For the purposes of this subdivision, a person may suffer serious impairment to health or safety as a result of termination when there is evidence of any of the following:

(a) dependency due to age, poor physical condition or mental incapacitation;

(b) use of life support systems, such as dialysis machines or iron lungs;

(c) serious illness; or

(d) disability or blindness.

(2) Procedures.

(i) A utility must not terminate service to customers known to be receiving heat-related service during cold weather periods, unless the utility has made a diligent effort to contact personally the customer or an adult resident at the customer's premises, at least 72 hours before the intended termination and, if unsuccessful, at the time of termination, in order to find out whether a resident may suffer a serious

impairment to health or safety as a result of termination, to fully explain the reasons for termination and to provide the customer with information on the protections available under this Part.

- (ii) Where the utility determines that a resident may suffer a serious impairment to health or safety as a result of termination, a utility must not terminate service unless:
    - (a) the utility notifies the local social services official orally and within five calendar days in writing, that a resident may suffer a serious impairment to health or safety as a result of termination; and
    - (b) the local social services official, after an investigation, informs the utility that the reported condition is not likely to result in a serious impairment to health or safety, or that an alternative means for protecting the person's health or safety has been arranged.
  - (iii) A utility notifying the local social services official under subparagraph (ii) of this paragraph must inform the customer of the referral and explain its purpose.
- (3) Termination of service.
- (i) If a utility terminates service to a customer under this subdivision, and the customer or a resident 18 years or older was not personally contacted by the utility before termination of service and the customer has not contacted the utility for the purpose of requesting reconnection before 12 noon on the day following termination of service, the utility must, by onsite personal visit with the customer or other adult resident, immediately attempt to determine whether there is continuing occupancy and whether a serious impairment to health or safety may result. If the utility determines that a serious impairment may result, it must immediately restore service. If the utility is unable to make an onsite personal visit with the customer or an adult resident, and does not have reasonable grounds to believe that the customer has vacated the premises, the utility must immediately refer the name and address of the customer to the local social services official.
  - (ii) If after the discovery of tampered equipment, a utility decides to terminate service to a customer because of a potential health or safety problem, it must determine, in accordance with this subdivision, whether a resident may suffer a serious impairment to health or safety as a result of termination. If the utility determines that a resident may suffer a serious impairment, it must follow the procedures set forth in this subdivision; provided, however, that continued service is not required if it is impractical for the utility to eliminate an unsafe condition. In any cases where a resident may suffer a serious impairment and the utility terminates service to preclude the continuation of an unsafe condition, the utility must specially notify the local social services official on the same day service is terminated and request an immediate consideration of the case.

#### .SO DOC 16A-14.6 NYCRR

##### 14.6 Voluntary third-party notice prior to termination of service.

- (a) Every utility must permit a customer to designate a third party to receive copies of all notices regarding termination of service or other credit actions sent to such customer, provided that the designated third party agrees in writing to receive such notices.
- (b) The utility must inform the third party that the agreement to receive notices does not mean the third party must pay for service provided to the customer.
- (c) The utility must promptly notify the customer in writing of the third party's refusal or cancellation of the agreement to receive notices.

#### .SO DOC 16A-14.7 NYCRR

##### 14.7 Termination of service to entire multiple dwellings.

- (a) Required notices.
  - (1) A utility must not terminate service to an entire multiple dwelling unless it fulfills all requirements of this section and provides written notice to:
    - (i) the owner of the multiple dwelling or the party to whom the last preceding bill was rendered;
    - (ii) the superintendent or other person in charge of the multiple dwelling, if it can be readily determined that there is such superintendent or other person in charge;

- (iii) the occupants of each unit;
  - (iv) the local health officer and the director of the social services district for the political subdivision in which the multiple dwelling is located;
  - (v) if the multiple dwelling is located in a city or village, the mayor thereof, or if there is none, the manager; or if the multiple dwelling is located in a town, the town supervisor; and
  - (vi) the county executive of the county in which the multiple dwelling is located, or if there is none, the chairperson of the county's legislative body.
- (2) The notice required by this subdivision must state:
- (i) the earliest date terminating may occur;
  - (ii) the reasons for termination, including the total amount required to be paid, and how termination may be avoided;
  - (iii) that there are special protections for occupants of multiple dwellings;
  - (iv) that occupants are authorized to set off utility payments against their rents in these circumstances, in accordance with subdivision (1) of section 235-a of the New York State Real Property Law;
  - (v) that utility procedures are available for arranging meetings with occupants to discuss the manner in which termination may be avoided, including the address and telephone number of the appropriate utility office; and
  - (vi) that commission procedures are available for assistance, including the address and telephone number of the appropriate commission office.
- (3) The notice required by this subdivision must be provided in the following manner:
- (i) by personally serving it or mailing it to the owner or superintendent, as required by subparagraphs (i) and (ii) of paragraph (1) of this subdivision;
  - (ii) by mailing it to the occupants and all local officials, as required by subparagraphs (iii), (iv), (v) and (vi) of paragraph (1) of this subdivision; and
  - (iii) by posting it in a conspicuous place in the public areas of the multiple dwelling.
- (4) The utility must give 15 calendar days notice if personally served or posted, and 18 calendar days notice if mailed.
- (5) The notice to local officials required by subparagraphs (iv) and (v) of paragraph (1) of this subdivision must be repeated not more than four nor less than two business days before termination.
- (6) Whenever a notice of termination of service has been made in accordance with this subdivision and the utility no longer intends to terminate service, the utility must so notify the occupants of each unit in the same manner as it gave the original notice.
- (b) Procedures to avoid termination of service.
- (1) A utility following the requirements of this section may require occupants in a multiple dwelling to pay no more than the current charges incurred by the party to whom the last preceding bill has been rendered, and must not terminate service if such current charges are paid.
  - (2) If occupants in a multiple dwelling find they are unable to reach an agreement with the utility to avoid termination of service, they may contact the commission's designee. After such a request is received, a designee will attempt to work out an agreement and will, if necessary, attempt to arrange a meeting with occupant representatives, the utility, and the party responsible for making payment for service.
  - (3) The commission's designee may stay a threatened termination 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 charges.
- (c) Physical termination of service. Paragraphs (c) (3) through (6) and subdivisions (d) through (f) of section 14.4 are applicable to the termination of service to entire multiple dwellings.
- (d) Termination of heat-related service to multiple dwellings during cold weather periods. During the cold weather period, the following procedure must be followed by a utility intending to terminate heat-related service to an entire multiple dwelling:

- (1) A utility must provide the notices required by subdivision (a) of this section not less than 30 calendar days before the intended termination.
- (2) A utility must provide each occupant with a written notice, not less than 10 calendar days before the earliest date termination may occur, advising the occupant that if any occupant in his or her apartment has a serious illness or medical condition that may result in a serious impairment to health or safety by the loss of heat service, he or she should immediately contact the utility. The notice must provide the name and telephone number of a utility contact person. Whenever an occupant so notifies a utility, the utility must conduct an onsite personal visit without delay, for the purpose of determining whether the occupant may suffer a serious impairment to health or safety as a result of termination. If the utility determines that an occupant may suffer a serious impairment to health or safety as a result of termination, the utility must refer such cases to the local department of social services and request the agency to investigate.
- (3) A utility referring such a case to the Department of Social Services must continue heat-related service to the multiple dwelling or otherwise provide heat to the person who may suffer a serious impairment for at least 15 business days after the referral. A utility that has referred such a case must not thereafter terminate heat-related service to the dwelling during the cold weather period unless it otherwise provides heat to the person who may suffer a serious impairment, or unless it is informed by the local department of social services that appropriate alternative arrangements to preclude a serious impairment to health or safety have been made or that the claim of serious impairment is without merit. A utility thereafter intending to terminate service must provide at least five calendar days written notice to the occupants that heat-related service will be terminated, and must, if so notified by the Department of Social Services, inform the individual of the finding of no serious impairment. Such notice must state that any occupant may seek further review by the commission.
- (4) If a utility is notified by the local department of social services that an occupant in a multiple dwelling where the heat-related service has been terminated by the utility may suffer a serious impairment to health or safety, it must reconnect heat-related service, or otherwise provide heat to such person, and continue such service as provided for in paragraph (3) of this subdivision.

.SO DOC 16A-14.8 NYCRR

14.8 Termination of service to two-family dwellings.

- (a) Applicability. If a utility knows that service is provided to a two-family dwelling, as defined in paragraph (b) (21) of section 14.2 of this Part, service must not be terminated unless the requirements of this section are complied with; provided, however, that where the utility knows that service is billed separately for each unit, this section does not apply. Each utility must keep a record of two-family dwellings.
- (b) Required notices.
  - (1) A utility must not terminate service to a two-family dwelling unless it fulfills all requirements of this section and provides written notice to:
    - (i) the owner of the premises or the party to whom the last preceding bill was rendered; and
    - (ii) the occupants of each unit.
  - (2) The notice required by this subdivision must state:
    - (i) the earliest date termination may occur;
    - (ii) the reasons for termination, including the total amount required to be paid, and how termination may be avoided;
    - (iii) that there are special protections for occupants of two-family dwellings where service is not billed separately;
    - (iv) that occupants may be authorized to set off utility payments against their rents in these circumstances, in accordance with the New York State Real Property Law;
    - (v) that utility procedures are available for considering complaints before termination, including the address and telephone number of the appropriate utility office; and

- (vi) that commission procedures are available for assistance, including the address and telephone number of the appropriate commission office.
- (3) The notice required by this subdivision must be provided in the following manner:
  - (i) by mailing it to the owner or party to whom the last preceding bill was issued;
  - (ii) by personally serving it or mailing it to the occupants; and
  - (iii) by posting it in a conspicuous place at or within the premises, unless prevented by physical circumstances.
- (4) The utility must give 15 calendar days notice if personally served or posted, and 18 calendar days notice if mailed.
- (5) Whenever a notice of termination of service has been made in accordance with this subdivision and the utility no longer intends to terminate service, the utility must so notify the occupants in the same manner as it gave the original notice.
- (c) Procedures to avoid termination of service.
  - (1) A utility following the requirements of this section may require the occupants in a two-family dwelling to pay no more than the current charges incurred by the party to whom the last preceding bill was rendered, and must not terminate service if such current charges are paid.
  - (2) An occupant may either:
    - (i) apply for service and be accepted as a customer, if eligible to do so under section 14.3 of this Part, in which case such person will be liable for future payments; or
    - (ii) choose to pay current charges only, in which case such person will not be liable for future payments and future bills must continue to be rendered to the customer with a copy sent to any occupant upon request.
- (d) Physical termination of service. Paragraphs (c) (3) through (c) (6) and subdivisions (d) through (f) of section 14.4 of this Part are applicable to the termination of service to two-family dwellings.
- (e) Termination of two-family dwellings during cold weather periods. During the cold weather period, the following procedure must be followed by a utility intending to terminate heat-related service to a two-family dwelling:
  - (1) A utility must provide the written notices required by subdivision (a) of this section not less than 30 calendar days before the intended termination.
  - (2) A utility must comply with either the requirements set forth in subdivision (d) of section 14.5 of this Part or in subdivision (d) of section 14.7 of this Part.

.SO DOC 16A-14.9 NYCRR

14.9 Reconnection of service.

- (a) Obligation to reconnect. A utility must reconnect service that has been terminated within 24 hours of the customer's request for reconnection, unless prevented by circumstances beyond the utility's control or unless a customer requests otherwise, under any of the following conditions:
  - (1) upon receipt of the full amount of arrears for which service was terminated;
  - (2) upon receipt of a signed payment agreement consistent with section 14.10 of this Part, covering the full amount of arrears for which service was terminated, and the receipt of a downpayment, if required under that agreement;
  - (3) upon the direction by the commission or its designee; or
  - (4) where a utility has received notice that a serious impairment to health or safety is likely to result if service is not reconnected. Doubts as to whether reconnection is required for health or safety reasons must be resolved in favor of reconnection.
- (b) Inability to reconnect. Wherever circumstances beyond the utility's control prevent reconnection of service within 24 hours of any of the events specified in subdivision (a) of this section, the utility must immediately

attempt to notify the customer and reconnect service within 24 hours of the elimination of those circumstances.

(c) Penalty.

- (1) If a utility does not reconnect service within 24 hours as required by this section, the utility must pay the customer for each day or portion of a day that service is not supplied after the date that service should have been supplied, as follows:
  - (i) \$50 per day or portion of a day in cases involving medical emergencies, the elderly, blind or disabled, heat-related service during the cold weather period, or where the utility has notice that a serious impairment to health or safety is likely to result if service is not reconnected; or
  - (ii) \$25 per day or portion of a day in all other cases.
- (2) The penalty referred to in paragraph (1) of this subdivision will not be applicable if the commission or its designee determines that the utility had good cause for not reconnecting service within 24 hours. In such cases, the utility has the burden of showing good cause.

.SO DOC 16A-14.10 NYCRR

14.10 Deferred payment agreements.

(a) Utility's obligations.

- (1) A utility must provide a written offer of a payment agreement, in accordance with this section, to an eligible customer or applicant at the following times:
  - (i) not less than five calendar days before the date of the scheduled termination of service for nonpayment of arrears, as indicated on a final termination notice, or eight calendar days if mailed;
  - (ii) when payment of outstanding charges is a requirement for acceptance of an application for service, in accordance with section 14.3 of this Part; and
  - (iii) when it renders a backbill which is more than \$100; provided, however, that a utility is not required to offer an agreement under this subparagraph where the customer's culpable conduct caused or contributed to the underbilling.
- (2) If payment of outstanding charges is a requirement for reconnection, in accordance with section 14.9 of this Part, the utility must offer the customer a payment agreement in accordance with this section. The utility must also inform the customer that he or she may opt to have the agreement include any applicable reconnection charge and/or legal fee, specifying the amount of such charge.
- (3) A utility must negotiate in good faith with a customer or applicant in order to arrange a payment agreement that the customer or applicant is able to pay, considering his or her financial circumstances.
  - (i) A utility may require that a customer or applicant complete a form showing assets, income and expenses, and provide reasonable substantiation of the information on that form, provided that all such information shall be treated as confidential.
  - (ii) A payment agreement must provide for installments as low as \$10 per month and no downpayment, when the customer or applicant demonstrates financial need for such terms, but need not provide for monthly installments of less than \$10.
  - (iii) A payment agreement may provide for any size or no downpayment and installments on any schedule over any period of time, and cover any outstanding charges, if mutually agreed to by the parties.
- (4) A utility must renegotiate and amend a payment agreement if the customer or applicant demonstrates that his or her financial circumstances have changed significantly because of conditions beyond his or her control.
- (5) A utility must develop written procedures and forms for evaluating the financial need of a customer or applicant, for assuring the confidential handling of such information, for arriving at fair and equitable payment terms and for training utility personnel, which procedures must be filed with the Consumer Services Division.

(6) The commission or its designee may order a utility to offer a payment agreement in accordance with this section where the parties have been unable to reach agreement or where an agreement is necessary for the fair and equitable resolution of a complaint.

(b) Eligibility.

- (1) A customer or applicant is eligible for a payment agreement and must be offered one in accordance with subdivision (a) of this section, unless:
  - (i) the customer is a seasonal, short-term or temporary customer;
  - (ii) the customer has broken an existing payment agreement; or
  - (iii) the commission or its designee determines that the customer or applicant has the resources available to pay the bill.
- (2) if the utility believes that a customer or applicant has the resources available to pay the bill in full or where the utility and customer are unable to agree on a payment agreement covering amounts that exceed the cost of twice the customer's average yearly usage, either party may seek a determination from the commission or its designee, in accordance with the following procedures:
  - (i) the utility must immediately notify the customer or applicant and the commission or its designee of its position;
  - (ii) the utility must give the customer or applicant written notice summarizing the procedures under this paragraph in clear and understandable language;
  - (iii) the commission or its designee will make a determination without undue delay; and
  - (iv) until such a determination is made by the commission or its designee, the utility must postpone any termination activity, and restore service or provide service if so directed by the commission or its designee, as long as the customer or applicant pays current bills and terms of a payment agreement established by the commission or its designee.

(c) Contents of offer. Every offer of a payment agreement must:

- (1) inform the customer or applicant of the availability of a payment agreement for eligible customers;
- (2) set forth generally the minimum terms to which such customer or applicant is entitled;
- (3) explain that alternate terms may be possible;
- (4) state the date by which the customer must contact the utility in order to avoid termination, if applicable;
- (5) specify the utility's telephone number and the times to call in order to discuss an agreement; and
- (6) state that if further assistance is needed, the customer or applicant should call the commission at a specified telephone number.

(d) Terms of agreement.

- (1) A payment agreement must require the customer or applicant to pay all current bills on time.
- (2) Unless otherwise agreed to by the utility and the customer, a utility is required to offer a payment agreement that covers amounts up to the cost of twice the customer's average annual usage. The downpayment may include any amount owed in excess of twice the customer's average annual usage. If the customer and utility are unable to agree upon a payment agreement under these circumstances, either party may seek a determination from the commission or its designee in accordance with paragraph (b) (2) of this section.
- (3) A payment agreement offered for nonpayment of arrears, upon application for service, or upon request for reconnection, under subparagraph (a) (1) (i) or (ii) of this section, may require the customer or applicant:
  - (i) to make a downpayment of up to 20 percent of the amount covered by the agreement, or the cost of one month's average usage, whichever is greater; and
  - (ii) to pay the balance in monthly installments up to the cost of one month's average usage or one-tenth of the balance, whichever is greater.

- (4) A payment agreement offered for backbilling, under subparagraph (a) (1) (iii) of this section, may require the customer to pay the outstanding charges in three or more monthly installments of up to the cost of one month's average usage or one twenty-fourth of such charges, whichever is greater.
  - (5) The cost of one month's average usage must be calculated by averaging the customer's cost of service over the prior year, if available.
- (e) Form of agreement. The payment agreement must, in clear and understandable language and format, contain the following information:
- (1) the total amount due, the required downpayment, if any, and the exact dollar amount and due date of each installment;
  - (2) the date by which the copy signed by the customer, and any applicable downpayment, must be received by the utility in order to become enforceable; provided, however, that such date may not be less than eight calendar days after it is sent;
  - (3) the utility's policy if the agreement is not signed and returned as required;
  - (4) that if the customer or applicant fails to comply with the terms of the payment agreement, the utility will take steps to terminate service; and
  - (5) that if the customer or applicant later can demonstrate his or her financial circumstances have changed significantly because of conditions beyond his or her control, the utility must amend the terms of the agreement to reflect such changes.
- (f) Broken agreements.
- (1) If a customer fails to make timely payment in accordance with a payment agreement, the utility must send a reminder notice at least eight calendar days before the day when a final termination notice will be sent, stating that:
    - (i) the customer must meet the terms of the existing payment agreement by making the necessary payment within 20 calendar days of the date payment was due or a final termination notice may be issued; and
    - (ii) if the customer can demonstrate that he or she is unable to pay the terms of the payment agreement due to a significant change in his or her financial circumstances, because of conditions beyond his or her control, the customer should immediately contact the utility at a specified telephone number to arrange a new payment agreement.
  - (2) If by the 20th calendar day after payment was due, the utility has neither received payment nor negotiated a new payment agreement, the utility may demand full payment of the total outstanding charges and send a final termination notice in accordance with section 14.4 of this Part.

.SO DOC 16A-14.11 NYCRR

14.11 Residential service deposits.

(a) Deposit requirements.

- (1) A utility may only require the payment of a security deposit from:
  - (i) a seasonal, short-term or temporary customer;
  - (ii) a delinquent customer, as long as at least 20 calendar days before its request for a deposit, the utility provides the customer with written notice that the failure to make a specified payment before a specified date may result in a request for a deposit and states how the deposit would be calculated; or
  - (iii) a customer whose service was terminated for nonpayment during the preceding six months.
- (2) A utility may not require a deposit from:
  - (i) a customer or applicant who is known to the utility as a recipient of public assistance, supplemental security income benefits or additional State payments; or
  - (ii) a customer or applicant who is known to the utility as an elderly, blind or disabled person, unless that customer's service was terminated for nonpayment within the preceding six months.

(3) If a deposit is authorized by this section, the utility must offer a customer, except for a seasonal, short-term or temporary customer, the opportunity to pay the deposit in installments, considering the customer's financial circumstances in a manner consistent with section 14.10(a) (3) of this Part.

(b) Deposit calculation.

- (1) The amount of a deposit must not be more than the cost of twice the customer's average monthly usage, except in the case of customers whose usage varies widely, where the deposit must not be more than the cost of twice the average monthly usage for the peak season.
- (2) The amount of the deposit must be based on service used during the previous 12-month period, as shown by any relevant billing history, and any relevant information concerning expected use.

(c) Deposit review.

- (1) A utility must, at least annually, review the billing history of every customer who has a deposit with the utility, to assure that a deposit may still be required under paragraph (a) (1) of this section and that the amount of the deposit is not more than the amount allowed in subdivision (b) of this section.
  - (i) If review shows that the deposit held falls short of the amount that the utility may lawfully require by 25 percent or more, the utility may require the payment of an additional deposit amount from the customer.
  - (ii) If a review shows that the deposit held exceeds the amount that the utility may lawfully require by 25 percent or more, the utility must return the excess deposit to the customer under subdivision (e) of this section.
- (2) If a request of a customer for a downward revision of the deposit is substantiated by the customer's billing history, a utility must return any portion of the deposit that is more than the amount the utility may lawfully require, under subdivision (e) of this section.

(d) Interest.

- (1) Every deposit earns interest at a rate set annually by the commission based on the current economic conditions and current charges paid for money borrowed by such utility, taking into account the expenses incurred by such utility in obtaining, handling, returning or crediting the sum deposited.
- (2) The interest must be paid to the customer when the deposit is returned, in accordance with paragraph (e) (1) of this section. If the deposit has been held for 12 consecutive months or more, the interest must be credited to the customer no later than the first bill rendered after the next succeeding first day of October and at the end of each succeeding 12-month period.

(e) Deposit return.

- (1) A utility must return a deposit or portion of a deposit plus the applicable interest in accordance with paragraph (2) of this subdivision, as soon as reasonably possible, but no more than 30 calendar days after:
  - (i) the date of the first bill for service rendered after a 12-month period during which time the customer was not delinquent, provided there is no other basis for the utility to request a deposit under paragraph (a) (1) of this section;
  - (ii) the day an account is closed; or
  - (iii) a review in accordance with subdivision (c) of this section shows that deposit reduction is warranted.
- (2) A deposit or portion of a deposit plus the applicable interest that is subject to return under paragraph (1) of this subdivision may be credited to the customer's account in the amount of any outstanding charges, and if any balance remains after the utility has credited the customer's account, a refund check must be issued to the customer.

(a) Meter reading.

- (1) A utility must attempt to obtain an actual reading for every metered account, on a regularly scheduled basis in accordance with its tariff.
- (2) An attempt to obtain a reading from either the meter or from a remote registration device requires that a meter reader follow routine reading procedures and access instructions, if applicable.
- (3) Unless a customer does not have access to the meter or the customer will be unable to obtain a reliable reading, the utility must, at the time of any unsuccessful attempt to obtain an actual reading, leave at the premises or mail the customer a meter reading card.

(b) Estimated bills.

- (1) A utility may render an estimated bill for a regular cycle billing period only when:
  - (i) the utility has been unable to obtain access to the meter;
  - (ii) circumstances beyond the control of the utility made obtaining an actual reading of the meter extremely difficult, despite having access to the meter area; provided, however, that estimated bills for this reason may be rendered no more than twice consecutively without the utility advising the customer in writing of the specific circumstances and the customer's obligation to have the circumstances corrected;
  - (iii) the utility has good cause for believing that an actual reading obtained is likely to be wrong; provided, however, that estimated bills for this reason may be rendered no more than once without the utility taking corrective action before the rendering of the next cycle bill;
  - (iv) circumstances beyond the control of the utility prevented the utility from obtaining an actual reading;
  - (v) an actual reading was lost or destroyed; provided, however, that an estimated bill for this reason may be rendered no more than once without the utility taking corrective action;
  - (vi) an estimated reading has been ordered or authorized by the commission for a particular billing cycle;
  - (vii) an estimated reading has been approved as the billing method consistent with the utility's tariff for the billing period; or
  - (viii) an unmetered condition was in existence during the period.
- (2) Every estimated bill must be calculated in accordance with an established formula which takes into account the best available relevant factors for determining the customer's usage.

(c) No access procedure.

- (1) A utility must begin providing no access notices as described in this subdivision with the next cycle bill issued after bills were estimated for a period of six consecutive months because of conditions listed in subparagraph (b) (1) (i) or (ii) of this section.
- (2) The no access notices and charges described in this subdivision must be directed only to the access controller. In any case where the access controller is not the customer of the subject account, a copy of these no access notices must also be sent to the customer at the same time.
- (3) The series of no access notices is as follows:
  - (i) the first notice must advise the access controller that the utility will arrange a special appointment to read the meter if the access controller calls a specified telephone number. Where the access controller is not the customer of the subject account, the notice must begin by stating that the utility records indicate that the recipient is the party who controls access to the meter of the customer, specifically identified as to address, part supplied, and account number, and that the utility has not been provided access to the customer's meter as required;
  - (ii) the second notice must advise the access controller that unless access to the customer's meter is provided on the next meter reading date or a special appointment to read the meter is made and kept by the access controller before that date, a no access charge will be added to the access controller's next bill and to every bill thereafter until access to the customer's meter is provided, but that no charge will be imposed if an appointment is arranged and kept. The notice must advise the access

- controller that the utility will arrange a special appointment for a reading of the customer's meter if the access controller calls a specified telephone number;
- (iii) the third notice must advise the access controller of the no access charge that has been added to the access controller's bill and that unless access to the customer's meter is provided on the next meter reading date or a special appointment to read the meter is made and kept by the access controller before that date, another charge will be added to the access controller's next bill. The notice must advise the access controller that the utility will arrange a special appointment for a reading of the customer's meter if the access controller calls a specified number; and
  - (iv) the fourth and each successive notice must advise the access controller of the no access charge that has been added to the access controller's bill.
- (4) A no access charge as provided for in the utility's tariff must not exceed \$25.
  - (5) No more than \$25 per building or premises must be added to any single bill of the access controller even though more than one meter is located there.
  - (6) A utility may, at its discretion, suspend temporarily the issuance of no access notices and/or penalties under this subdivision if the access controller contacts the utility and provides a legitimate reason for postponing the provision of access.
  - (7) Nothing in this subdivision prevents a utility from sending appropriate no access notices to the party who controls access but does not have an active account of its own with the utility.

.SO DOC 16A-14.13 NYCRR

14.13 Backbilling.

(a) Notice.

- (1) Every backbill must contain a written explanation of the specific reason for the backbill, and if the bill covers more than a 24-month period, a statement as to why the billing was not limited under subdivision (c) of this section.
- (2) Every backbill must contain all required information applicable under section 14.15 of this Part.
- (3) A backbill must be accompanied by an offer of a payment agreement in accordance with section 14.10 of this Part, if applicable.

(b) Limitations on issuance of backbills.

- (1) A utility may not issue a backbill more than six months after the utility actually became aware of the circumstance, error or condition that caused the underbilling.
- (2) A utility may not upwardly revise a backbill, and must issue a downwardly revised backbill as soon as reasonably possible and within two months after the utility becomes aware that the first backbill was excessive.

(c) Limitations on backbilling period.

- (1) When the failure to bill earlier was due to utility deficiency, a utility must limit the backbilling period to 12 months before the utility actually became aware of and corrected the circumstance, error or condition that caused the underbilling, unless the utility can demonstrate that the customer's culpable conduct caused or contributed to the original underbilling.
- (2) When the failure to bill earlier was not due to utility deficiency, a utility must limit the backbilling period to 24 months before the utility actually became aware of and corrected the circumstance, error or condition that caused the underbilling, unless the utility can demonstrate that the customer's culpable conduct caused or contributed to the original underbilling.

.SO DOC 16A-14.14 NYCRR

14.14 Late payment and other charges.

(a) Late payment charges.

- (1) A utility may charge for late payments, consistent with its tariff, on the balance of any bill for service, which has not been paid in full within 20 calendar days of the date payment was due.

(2) A utility may not impose a late payment charge on any bill that is the subject of a pending complaint before the utility or the commission; provided, however, that a late payment charge may be imposed if the final resolution of the complaint directs payment of the disputed amount or any portion of it to the utility.

(b) Other charges. Except as provided in this section, a utility may not charge any customer a late payment charge, penalty, fee, interest or other charge of any kind for any late payment or collection effort because the customer has failed to pay on time. Nothing in this section prevents a utility from imposing a reasonable charge for other lawful purposes, consistent with its tariff.

#### .SO DOC 16A-14.15 NYCRR

##### 14.15 Contents of bills.

(a) Every utility bill must state:

(1) the name and address of the corporation, partnership or person responsible for supplying the service;

(2) where the bill can be paid;

(3) the service classification on which the charges are based, if applicable;

(4) the name of the customer, the account number and the address of the premises where the service was supplied;

(5) the start and end date of the billing period;

(6) the amount of service billed with a separate itemization for minimum charges and usage, a statement of the cost of any other tariff charges and applicable taxes, and the total of the current charges, displayed in a vertical format;

(7) the date payment is due, as long as the date is not before the bill is hand delivered to the customer or less than three calendar days after the bill is mailed;

(8) the date of the latest payment received or the date through which payments have been credited, and the balance carried over from the prior bill, if any;

(9) whether any charge will be imposed for late payment, if applicable, and the date payment must be received by the utility, in order to avoid a late payment charge;

(10) the amount of any late payment charge applied during the current billing cycle, if applicable;

(11) an explanation of any abbreviation or symbol used that is not common English usage;

(12) a telephone number to call at the utility if the customer has any questions about the bill; and

(13) for metered accounts:

(i) whether the bill is based on a reading obtained from the meter itself or from a remote registration device, a customer reading, or an estimation, and if estimated, the reason for the estimation;

(ii) the next scheduled meter reading date, if applicable; and

(iii) if the bill is for previously unbilled unmetered service, that the bill is for an estimated amount of service used but previously not billed, the reason the bill was not rendered at the time the service was used, the basis used for calculating the amount of service billed, and the period of the unmetered service.

(b) Nothing in this section prevents a utility from providing pertinent messages and information on the bill, as long as such information does not interfere with the presentation of the information required by this section.

#### .SO DOC 16A-14.16 NYCRR

##### 14.16 Notice requirements.

(a) Annual notice of rights.

(1) A utility must, at the time of application for service and at least once each year after service is extended, provide applicants and customers with a brochure containing a detailed description of their rights and obligations under this Part, including the following:

(i) conspicuous notice that customers who are elderly, blind or disabled, or whose service is heat-related must so inform the utility in order to receive special protections; and

- (ii) appropriate form(s) to be filled out by customers who may be eligible for special protections including but not limited to elderly, blind and disabled, public assistance recipients, and persons in two-family dwellings.
  - (2) The notice required at the time of application for service must be provided with the service application to an applicant from whom a written application is required and by mail, within 30 calendar days of the request for service, to an applicant from whom a written application is not required.
- (b) Periodic notices.
- (1) If a customer has a deposit with a utility, an accounting for the deposit, showing the interest earned during the current year and the date the deposit was obtained, must be provided annually to the customer.
  - (2) If a utility issues bills monthly or bi-monthly, a notice offering a quarterly billing plan to customers known to be 62 years of age or older, whose average annual billing is under \$150, must be provided annually to such customers.
  - (3) A notice offering a fixed income billing plan must be provided annually to every customer known to be on a fixed income. Such billing plan must provide for payment of bills on a reasonable schedule considering the customer's regular receipt of income, without being charged late payment charges, as long as payment is made within 20 calendar days of the scheduled due date.
  - (4) A notice advising a customer of the applicable rate structure, in accordance with the utility's tariff, and offering the customer a detailed bill calculation upon request, must be provided annually to every customer.
- (c) Hazardous conditions. If the utility is aware of a hazardous condition that may affect the health and safety of consumers of its water, the utility must immediately make all reasonable efforts to contact affected parties.
- (d) Billing information in a language other than English. A utility providing service to a county where at least 20 percent of the population, according to the most recent Federal census, regularly speaks a language other than English must send messages on bills and notices in both English and the other language, at the request of a customer living in the county.
- (e) Format. All notices, brochures, forms and bills required by this Part, and any other written informational material for customers, including results of a complaint investigation provided under paragraph (a)(3) of section 14.19 of this Part, must be in plain language, printed in a format that is easy to read and understand, and must:
- (1) include definitions of any pertinent technical terms;
  - (2) contain a size of type that is readable; and
  - (3) include clear section headings, if applicable.
- (f) Filing. All notices, brochures, forms and bills required by this Part, along with the intended program for their use, must be filed with the Consumer Services Division by a utility before their circulation.

.SO DOC 16A-14.17 NYCRR

14.17 Emergency disconnection of residences.

- (a) Emergency disconnection. A utility may disconnect service to a premises when an emergency may threaten the health or safety of a person, the surrounding area or the utility's distribution system.
- (b) Notice. A utility must, if possible, provide advance notice to those whose service will be disconnected under this section.
- (c) Restoration of service. A utility must act promptly to restore service as soon as feasible after disconnection. Service must be restored to any premises which has been disconnected under this section, before it may be terminated for nonpayment of charges.

.SO DOC 16A-14.18 NYCRR

14.18 Inspection and examination of utility apparatus.

(a) Right to inspect.

- (1) An agent of a utility may enter, at all reasonable times, any location supplied with service by the utility for inspection and examination of its equipment related to the provision of such service.
- (2) An agent of a utility may not enter locked premises without the permission of a person lawfully in control of the premises, unless explicitly authorized by court order or when an emergency may threaten the health or safety of a person, the surrounding area or the utility's distribution system.

(b) Duty to inspect. A utility must conduct a field inspection as soon as reasonably possible, but no more than 60 calendar days after a reasonable customer request or a directive by the commission or its designee.

.SO DOC 16A-14.19 NYCRR

14.19 Complaint handling procedures.

(a) Complaints to the utility.

- (1) A utility must establish a written procedure for the handling of customers' complaints to the utility which allows for the acceptance and processing of complaints in a simple manner and form. Such procedure must require that complaints be promptly acknowledged, fairly investigated in a reasonable period of time, and that the results of such investigations be promptly reported to the complainants in plain language. Such procedure must also include notice to the customer of a specified telephone number for customers or applicants to call with any questions or problems.
- (2) A utility must not take any steps to terminate a customer's service between the time a complaint is filed with the utility and 15 calendar days after the utility provides the customer with the results of the investigation, as long as the customer pays the undisputed portions of any bills for service, which may include bills for current usage.
- (3) After the investigation is completed, a utility must promptly report the results to the customer in plain language. If the report is made orally, the utility must provide the customer with the report in writing upon request.
- (4) When the utility gives its final response to a customer's complaint and the complaint resolution is wholly or partially in the utility's favor, the utility must inform the customer of the commission's complaint handling procedures, including the commission's address and telephone number.

(b) Complaints to the commission.

- (1) If a customer is dissatisfied with the resolution of the complaint to the utility, the customer may complain, either orally or in writing, to the commission, under Part 12 of this Title.
- (2) A customer's complaint to the commission will be handled in accordance with Part 12 of this Title.

.SO DOC 16A-14.20 NYCRR

14.20 Utility compliance.

All utilities shall conform their practices to comply with rules set forth in this Part not later than January 22, 1991.

.SO DOC 16A-CISC NYCRR

SUBCHAPTER C

Applications for Authority

PART

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.SO DOC 16A-SCCAR1 NYCRR

ARTICLE 1

General

PART 17 Matters Relative to All Applications

18 Financial Condition Defined

.SO DOC 16A-PT17 NYCRR

PART 17 MATTERS RELATIVE TO ALL APPLICATIONS

(Statutory authority: Public Service Law, § 66)

Sec.

17.1 Preparation and filing of petition

17.2 Attachment of certificate of incorporation

17.3 Further information required

17.4 Correction of deficiencies

17.5 Furnishing of original document

.SO DOC 16A-17.1 NYCRR

Section 17.1 Preparation and filing of petition.

All applications for approval, consent, permission or certificate of authority shall be by petition duly verified.

The petition and all accompanying documents shall be filed in accordance with the requirements of § 3.5 of this title.

.SO DOC 16A-17.2 NYCRR

17.2 Attachment of certificate of incorporation.

A certified copy of the certificate of incorporation of every corporation directly interested in presenting the petition, together with a certified copy of each amendment to such certificate shall accompany the petition. If a document has once been filed with the Commission, the petitioner may, in lieu of filing further copies, state in the petition such fact with the date of filing and the proceeding in which the same was filed.

.SO DOC 16A-17.3 NYCRR

17.3 Further information required.

The petition shall contain such further information as required by law or by rules of the Commission and shall set forth in detail that compliance has been had with such requirements.

.SO DOC 16A-17.4 NYCRR

17.4 Correction of deficiencies.

Deficiencies in a filed petition, when called to the attention of the applicant, must be promptly corrected, or the application may be denied for lack of proper submission.

.SO DOC 16A-17.5 NYCRR

17.5 Furnishing of original document.

The petitioner shall furnish and make available for the use of the Commission the originals of all books, papers and documents which may be required or if so directed certified or verified copies of the same. Failure so to do may be grounds for rejecting the application.

.SO DOC 16A-PT18 NYCRR

PART 18

FINANCIAL CONDITION DEFINED

(Statutory authority: Public Service Law, § 66)  
Sec. 18.1 Information required

.SO DOC 16A-18.1 NYCRR

Section 18.1 Information required.

Whenever a petitioner is required to state its financial condition, there shall be submitted the following information:

- (a) Amount and classes of stock authorized by law or certificate of incorporation, as last amended.
- (b) Where capital stock has been authorized by the commission, the case number and date of the order of such authorization.
- (c) Separately for each class of stock: par value, if any; amount actually paid to the corporation for such stock; amount of premium realized thereon; number of shares and par value, if any, of stock for which subscriptions have been received but which at the date of the balance sheet had not been fully paid and issued together with the agreed purchase price and amount of payments on such subscriptions.
- (d) Terms of preference of each class of preferred stock.
- (e) Separate statement for each class of nonpar stock showing amount of each item transferred thereto from surplus or other accounts, the date of such transfer and the title of the account from which the transfer was made.
- (f) Where bonds, notes or other evidences of indebtedness have been authorized by the commission, the case number and date of the order of such authorization.
- (g) Brief description of each mortgage upon any property of the applicant giving date of execution, name of mortgagor, name of mortgagee or trustee, amount of indebtedness authorized to be secured thereby, amount of indebtedness actually incurred and brief description of mortgaged property.
- (h) Separately for each bond issue: the number and amount of bonds authorized and issued; the amount outstanding, the outstanding bonds to be subdivided between actually outstanding and nominally outstanding (reacquired); the name of the company which issued the bonds; the description of each class of bonds separately, giving date of issue, face value, rate of interest, date of maturity and how secured. If convertible bonds are authorized or outstanding, the date when the conversion privilege accrues and expires, the securities into which and the rate at which conversion may be made.
- (i) Separate statement for each affiliated interest as defined by the Public Service Law; the amount of advances therefrom, the name of the creditor, the interest provisions, terms of settlement and purpose for which the advances were made; other indebtedness to each affiliated interest, except indebtedness representing ownership by an affiliated interest of mortgages or bonds described in subdivisions (f) and (g) of this section, giving classes of debt and the security, if any.
- (j) Other indebtedness, classes of debt and the security, if any.
- (k) Amount of interest accrued during the previous fiscal year at each of the several rates required by the terms of the outstanding indebtedness and the amount of interest accrued at each rate.
- (l) Rate and amount of dividends declared upon each class of stock during each of the five years last preceding an amount of dividends paid.
- (m) Statement of contingent assets and contingent liabilities with a brief description of each major item, and separately for each class of capital stock, the amount of unpaid cumulative dividends accrued.
- (n) Analysis of unearned surplus showing the nature of each major item included therein, and insofar as items in that account originated in connection with capital stock transactions, the amount therein applicable to each class of stock.
- (o) Statement of the program in effect for the amortization of deferred debits and deferred credits or other balance sheet accounts, and the bases upon which are determined the debits or credits whereby such deferred debits are being amortized and whereby such deferred credits or operating reserves are being written off or created.
- (p) Detailed income statement and balance sheets for latest fiscal year; also latest available income statement and balance sheets for 12 months.

Note: A reference in the petition to annual or other reports filed or to be filed with the commission will not be deemed a compliance with the provisions of this section.

.SO DOC 16A-SCCAR2 NYCRR

ARTICLE 2

Issuance of Certificates and Permits

Note: Forms for the issuance of a certificate of authority to act as a contract carrier of passengers may be obtained from the Department of Public Service.

PART 21 Gas, Electric, Steam, Waterworks, Telegraph and Telephone Corporations and Municipalities