

HEFPA Compliance Guide **for Submeter Service Providers**

Pursuant to PSL§ 30 and 53 and the Commission's Order in Case 03-M-0117, certain consumer rights and protections were extended to consumers who purchase their electricity from an entity that submeters electricity. These rights and protections include, but are not limited to, complaint handling procedures and consumer protections under the Home Energy Fair Practices Act (HEFPA).

Following is an outline of these comprehensive regulations that cover consumer protections and responsibilities. Each customer, at the time service is initiated, and at least annually thereafter, should be provided with a summary of their rights and obligations under HEFPA. You can obtain a complete copy or review these regulations by going to our website at www.dps.ny.gov/hefpa.htm. When submitting a petition to submeter service in a building, copies of the following notifications are required to ensure compliance with these protections:

- HEFPA Protections
- Complaint Process (sample is provided)
- Annual Notification Regarding Rights and Responsibilities
- Submetering Identification Form: Regulatory contact information specific to each property including, information for properties managed by the same submetered entity.

HEFPA Protections

Termination or Disconnection of Service:

A submeterer may disconnect service under the following conditions if the customer:

- fails to pay charges for services rendered; or
- fails to pay amounts due under a deferred payment agreement;
- fails to pay a lawfully required deposit; and,
- is sent a final disconnection notice no less than 15 days before the disconnection date shown on the notice.

A final disconnection notice shall clearly state or include:

- the earliest date on which disconnection may occur;
- the reasons for disconnection, including the total amount required to be paid, and the manner in which disconnection may be avoided;
- the address and phone number of the office of the submeterer that the customer may contact in reference to his/her account;
- the availability of procedures for handling complaints;
- a summary of protections available under HEFPA; and,
- in a size type capable of attracting immediate attention a statement that reads, "THIS IS A FINAL DISCONNECTION NOTICE. PLEASE REFER TO THIS NOTICE WHEN PAYING THIS BILL."

Special Procedures:

Medical Emergencies

No submeterer shall disconnect or refuse to restore service when a medical emergency exists.

Life Support Systems

If a customer or a resident of the customer's premises suffers from a medical condition requiring utility service to operate a life-sustaining device, certification by a medical doctor or qualified official of a local board of health shall remain effective until terminated by the commission or its designee, provided the residential customer demonstrates an inability to pay charges for service.

Customers Who Are Elderly, Blind or Disabled

No submeterer shall disconnect or refuse to restore service where a residential customer is known to or identified to the submeterer to be elderly, blind, disabled or 62 years of age or older, and all remaining residents of the household are 62 years of age or older, 18 years of age or under, or blind or disabled, without complying with the procedures specified in HEFPA.

Cold Weather Periods

Every submeterer shall develop and maintain methods to identify all residential households in its buildings whose utility service is heat related.

During the period beginning November 1st of each year and ending April 15th of the following year, every submeterer shall observe, at a minimum, the procedures in HEFPA Section 11.5 (c) (2).

Voluntary Third-Party Notice:

Every submeterer shall permit a residential customer to designate a third party to receive all notifications relating to disconnection of service or other credit actions sent to such residential customer, provided that the designated third party agrees in writing to receive such notices. The submeterer shall inform the third party that the authorization to receive such notices does not constitute acceptance of any liability on the third party for service provided to the customer. The submeterer shall promptly notify the residential customer of the refusal or cancellation of such authorization by the third party.

Deferred Payment Agreements:

A deferred payment agreement is a written agreement for the payment of outstanding charges over a specific period of time, signed by both the submeterer and customer. A submeterer must make reasonable efforts to contact eligible customers or applicants by phone, mail or in person for the purpose of offering a deferred payment agreement and negotiating terms tailored to the customer's financial circumstances when payment of a bill or arrears is owed on an account.

Budget or Levelized Payment Plans:

A submeterer shall offer residential customers a voluntary budget billing or levelized payment plan for the payment of charges. The plan shall be designed to reduce fluctuations in customers' bills due to seasonal patterns of consumption. The plan shall be based on a customer's recent 12-month billing data and if not available then 12 months of billing data for the premises shall be used. If 12 months of billing data are not available for the premises then the utility shall estimate consumption over the next 12-month period. Bills should clearly identify consumption and state the amounts that would be due without levelized or budget billing. In addition each plan shall provide that bills will be subject to regular review for conformity with actual billings.

Quarterly Billing Plan:

Public Service Law (not HEFPA) also allows a submeterer to offer residential customers who are 62 years of age or older, as an alternative to monthly billing, a plan for payment on a quarterly basis of charges for service rendered provided that such customer's average annual billing is not more than \$150.

Deposits:

Deposits for submetered accounts may be required if:

- Tenant is a seasonal or a short-term customer.
- Customer accumulates two consecutive months of arrears without making reasonable payment. A submeterer shall provide a customer written notice, at least 20 days before it may assess a deposit.
- Customer had electric service terminated, disconnected or suspended for nonpayment during the preceding six months.
- Submeterer permits the customer to pay the deposit in installments over a period not to exceed 12 months.

Deposits for submetered accounts shall not be required or held if:

- Submeterer knows customer to be a recipient of public assistance, supplemental security income, or additional State payments.
- Submeterer knows customer is 62 years of age or older unless such customer has had service terminated, disconnected or suspended by the submeterer for nonpayment of bills within the preceding six months.

Requirement:

- Deposits should be a reasonable amount not greater than twice the average monthly bill except in cases of electric space heating, where it may not exceed twice the estimated average monthly bill for the heating season.
- Interest must be paid on deposits at a rate prescribed annually by the Commission. Interest will be applied to the bill when the deposit was held for a period of one year. If the customer is not delinquent in payment of bills during the one year period, the deposit and the interest is refunded promptly.

Late Payment Charges:

A submeterer may impose a one-time or continuing late payment charge, not in excess of 1 ½ percent per month, on the unpaid balance of any bill for service provided the bill clearly shows the amount billed, whether any charge will be imposed for late payment, when the late payment charge becomes applicable, and the time period during which the bill may be paid without the imposition of the late payment charge. Residential customers on fixed incomes shall be offered the opportunity to pay their bills on a reasonable schedule that is adjusted for such customer's periodic receipt of income without such customers incurring late payment charges provided that the offer may prescribe a late payment charge where payment is not made within 20 days of the scheduled due date.

Contents of Bills:

Each submeterer bill to a residential customer shall provide, in clear and understandable form and language, the charges for service.

The residential bills shall include:

- the name, address and account number of the customer, dates of the present and previous meter readings, whether the reading is actual or estimated, amount of electricity consumed for the period being billed, the amount owed for the latest period including any applicable fees or taxes for service, the date by which payment may be paid without penalty, the penalty charge for bills paid late, credits from past bills, and any amounts owed and unpaid from previous bills;
- if the bill is issued under a budget or levelized billing plan, an identification of the type of plan, the total of the year's budget or levelized amounts billed to the end of the period covered by the current bill, and the debit or credit balances; and,
- an explanation of how or where the bill may be paid.

Notification Requirements:

At the time service is initiated, including the implementation of submetering, all submeterers must provide residential customers a copy of their Notification of Rights and Responsibilities, and at least annually thereafter, in compliance with the Home Energy Fair Practices Act (HEFPA).

Complaints to the Submeterer:

Customer complaints about bills for utility service, deposit requests or other service problems shall first be made to the submeterer. The submeterer shall allow complaints to be accepted and processed in a simple manner and form. Every submeterer shall promptly investigate any complaint in a fair manner and report the results to the complainant. The complainant shall be informed of the availability of the commission's complaint handling procedures, including the commission's address and telephone number.

Complaint Process

Submeter entities should use the following section as a guide in preparing a complaint process for residents to follow when filing a complaint regarding submetered electric service.

To initiate a complaint:

If you have any questions or concerns regarding your electric service, please contact the owner/managing agent of the building by telephone or mail at (submeterer's telephone number and address should be included).

To escalate a complaint:

If your concerns are not resolved, you may request that the issue be escalated to a supervisor/manager, within the owner/managing agent's office. This request can be made by telephone or mail at (submeterer's telephone number and address should be included). A determination will be made and the results reported to you.

Further review:

After your concerns have been escalated to a supervisor/manager, within the owner/managing agent's office, if your complaint is still not resolved in whole or in part you may contact the Public Service Commission at New York State Department of Public Service, 3 Empire State Plaza, Albany, New York 12223 or at 90 Church Street, New York, New York 10007 or call its HELPLINE at 1-800-342-3377 and file a complaint seeking to have the issue resolved by the Public Service Commission. The website for the Public Service Commission is www.dps.ny.gov.

If your complaint is in regards to a billing issue, you will not be asked to pay the undisputed portion of the bill while the matter is being investigated by the owner/managing agent or the Public Service Commission. However, the remaining balance of the bill in question and any future bills should be paid when due.

Annual Notification of Rights and Responsibilities

Every submeterer shall, at the time service is initiated (including implementation of submetering) to a residential customer and at least annually thereafter, provide the customer the following information in compliance with the Home Energy Fair Practices Act (HEFPA):

- a description of the submetering complaint handling procedures available at the Owner/Management Office and the Commission;
- the rights and obligations of residential customers relating to payment of bills, terminations, disconnections and suspension of service and reconnection of service;
- a description of special protections afforded the elderly, blind and disabled; persons with medical emergencies;
- persons receiving public assistance, supplemental security income benefits or additional State payments;
- a request that residential customers who qualify for the protections referred to in subdivisions (b) of HEFPA Section 11.5 which refer to customers who are elderly, blind or disabled and subdivision (c) of HEFPA Section 11.5 which provides special procedures to be followed during cold weather periods;
- the right of a customer to designate a third party to receive copies of all notices relating to termination, disconnection and suspension of service or other credit notices;
- a description of the customers' rights in regard to deferred payment plans and the holding and requesting of security deposits by the submeterer; and,
- a description of the submeterer's budget or levelized payment plans.