

I. WINTER MORATORIUM:

A. Ohio

COLUMBUS, Ohio, Sept. 18 /PRNewswire/ -- For the 19th consecutive year, the **Public Utilities Commission of Ohio (PUCO) today ordered Ohio's natural gas and electric utility companies to reconnect or maintain winter heating service to customers who have been disconnected or threatened with disconnection due to nonpayment of a utility bill.**

Under the plan, ordered by the PUCO each year since 1984, **utility customers whose service has been or may be disconnected due to non-payment can have their service restored or maintained in time for winter if they pay the amount in default or \$175, whichever is less, plus a service reconnection fee of no more than \$20.** Ohio's natural gas and electric utility companies must reconnect service on the same day if payment is made before 12:30 p.m. or the following day if payment is made after 12:30 p.m.

Customers who have had their service disconnected or are in jeopardy of being disconnected may use the plan to have service reconnected only one time during the time period of October 20, 2003 through April 15, 2004. **There is no income eligibility requirement to use this order.** Participants in the program must also sign up for one of the plans available to customers to help them pay a past-due balance on their utility bill.

"THE COMMISSION IS CONCERNED ABOUT THOSE WHO, BECAUSE OF LIMITED FINANCIAL RESOURCES, HAVE HAD THEIR GAS AND/OR ELECTRIC SERVICE DISCONNECTED BECAUSE THEY ARE UNABLE TO PAY THEIR BILLS AND WHO, BECAUSE OF ARREARAGES, HAVE BEEN UNABLE TO HAVE THESE SERVICES RESTORED," WROTE THE COMMISSION IN ITS ORDER. "WE BELIEVE THAT THE RULES OF THE COMMISSION HAVE SUBSTANTIALLY ASSISTED CUSTOMERS TO KEEP GAS AND ELECTRIC UTILITY SERVICE IN SPITE OF THEIR FINANCIAL SITUATION. NEVERTHELESS, A NUMBER OF OHIO CITIZENS WILL ENTER THE WINTER WITHOUT UTILITY SERVICE. THIS, WE FIND, CONSTITUTES A CONTINUING EMERGENCY."

B. Massachusetts:

§ 124F. Shutting off service during financial hardship

No gas or electric company shall **between November fifteenth and March fifteenth shut off gas or electric service to any residential customer who cannot pay an overdue charge because of financial hardship**, when such gas or electric service is used to provide heat or to operate the heating system of the customer's unit or building. The department may promulgate such rules and regulations consistent with this section as it deems reasonable and necessary to implement

the provision of this section.

[Rules at 220 CMR Part 25.00]

C. Wisconsin:

Wis. Adm. Code PSC 113.0304

Cold weather disconnections.

(1) **DECLARATION OF POLICY.** The public service commission of Wisconsin recognizes that **THERE ARE MANY CITIZENS OF THE STATE WHO, BECAUSE OF INCOMES, INFIRMITIES OF AGING, DEVELOPMENTAL OR MENTAL DISABILITIES OR LIKE INFIRMITIES INCURRED AT ANY AGE, OR THE FRAILTIES ASSOCIATED WITH BEING VERY YOUNG, NEED PROTECTION FROM COLD WEATHER DISCONNECTIONS.** This section is intended to provide that protection as enumerated below. It is the further intent of the public service commission that these rules be used as guidelines to identify those customers who are not covered by sub. (4). For households subject to disconnection under this section, **any disconnection permitted by this chapter during the cold weather period defined below shall be made only as a last resort, after all other legal means of recourse have been attempted and proven unsuccessful.**

(2) **APPLICABILITY.** (a) This section applies to disconnections for nonpayment of utility service which provides the **primary heat source or energy source affecting the primary heat source to residential dwelling units occurring during the period November 1 to April 15** in any year for all occupied residences.

(b) [Omitted].

(3) [Omitted].

(4) **CONDITIONS FOR DISCONNECTION.** A utility may disconnect only those households whose **gross quarterly incomes are above 250% of the federal income poverty guidelines and where health and safety would not be endangered because of the infirmities of age, developmental or mental disabilities or like infirmities incurred at any age or the frailties associated with being very young, if service were terminated or not restored.**

(5) **VERIFICATION.** (a) **The burden of proof that a household is eligible for disconnection as defined in sub. (3) shall be the responsibility of the utility.**

(b) The utility, as part of its filing with the public service commission pursuant to sub. (12) (b), shall include how it will verify the household's income and situation.

(6) **NOTICE.** (a) **Prior to and again at the time of disconnection of service, a utility representative shall meet personally with a responsible, adult member of the household to discover any circumstances which deserve special attention, such as medical problems or disabilities.**

(b) The utility shall maintain a record of all contacts with the household from the time that notice of pending disconnection is first given.

(7) TELEPHONE AVAILABILITY. A utility shall provide its emergency after-hours telephone number to all households scheduled for utility service disconnection.

(8) CUSTOMER AND OCCUPANT SERVICE INFORMATION. Prior to disconnection, a utility shall inform the household of the availability of deferred payment agreements, budget billing and in the case of a noncustomer occupant, the option of accepting responsibility for future bills.

(9) NO DISCONNECTION ON CERTAIN DAYS. **A utility may not disconnect service to an occupied dwelling on a Friday, Saturday, Sunday, holiday or on a day when utility personnel are not readily available to the occupant 24 hours per day to negotiate restoration of service.**

(10) THIRD PARTY CONTACTS. If the household has previously requested that a specific third party be notified before disconnection, the utility shall contact that third party prior to disconnection of service.

(11) MANAGEMENT-LEVEL EMPLOYEE. The utility shall designate by November 1 each year one or more executive employees who will be responsible for final approval of the disconnection of utility service and notify the commission, in writing, of the name, title and contact number of the person or persons so designated. The designated employee shall certify on a form approved by the commission that all appropriate code provisions have been met prior to authorizing disconnection. For investor-owned utilities with 30,000 or more customers, the designated person shall be an employee with at least the position of vice president. For investor-owned utilities with fewer than 30,000 customers, the designated employee shall be the utility president. For a municipal utility the designated employee shall be either the general manager or chairperson of the governing board. A utility may designate an employee to act in the absence of the above-listed personnel because of illness or vacation.

(12) REPORT. (a) **The utility shall report each disconnection of service to an occupied dwelling by facsimile transmission, if available, or telephone to the consumer services bureau of the public service commission by 3:30 p.m. the same day the disconnection takes place.**

(b) If a utility intends to make any disconnection of service to occupied dwellings under the provisions of this section, it shall each year, prior to making any disconnections, file procedures for review and receive approval by order of the public service commission describing how it intends to identify the occupied dwellings subject to disconnection. If within 60 days of submission the commission has not, by order, approved the procedures, the procedures shall be considered disapproved.

(13) FOLLOW-UP VISIT. (a) **By the end of the work day following the day of disconnection, the utility shall make an in-person visit to the occupied dwelling to check on the household's wellbeing and to ensure there is no danger to human health or life.** The utility shall again inform the household of the availability of deferred payment or budget billing agreements, shelter assistance and in the case of a noncustomer occupant, the option of accepting responsibility for payment of future bills. If the utility or its representative observes a danger to human health or life due to the disconnection, the utility shall immediately restore service.

(b) The utility may request that the visit required under par. (a) be made by a representative of a

city health department, local health and social service agency, local law enforcement agency, or similar authority, but ultimate responsibility for the visit shall remain with the utility.

(c) The utility shall make a written record of the visit required under par. (a).

(14) INTERNAL PROCEDURES. The utility shall submit for approval by commission order copies of its written internal procedures for implementing this section and any materials used in training its employees to carry out these rules. If within 60 days of submission the commission has not, by order, approved the internal procedures, the procedures shall be considered disapproved. The utility shall review these procedures annually and update the files procedures when appropriate. A utility which does not disconnect occupied residences for nonpayment during the winter period is not required to file such procedures.

II. DEPOSITS

A. Massachusetts

220 Code Mass. Regs 27.00: **Elimination of the practice of gas and electric companies of requiring a deposit from residential customers as a condition to furnishing utility service**

220 CMR 27.00 is applicable solely to utility service rendered to residential customers by any gas or electric utility company (hereinafter referred to as Company) subject to the jurisdiction of the Department of Public Utilities of the Commonwealth of Massachusetts. All non-residential accounts, including commercial, industrial and municipal accounts, are expressly excluded from the coverage of 220 CMR 27.00.

No Company may require a deposit to secure payment of utility bills in advance of or as a condition to new or continued service. A Company may properly condition new or continued service, subject to law and the Department's regulations on Billing and Termination Procedures for Residential Customers of Gas and Electric Companies, upon payment by the customer of any outstanding bill of that Company; provided however, that if a customer has not failed previously to pay when due and finally determined to be payable two or more consecutive bills of that Company, the Company shall grant or continue service as long as the customer shall pay the overdue bill in full or under an installment payment plan, not to exceed three months in duration. On or before the effective date of 220 CMR 27.00 any Company holding deposits to secure payment of utility bills in advance of or as a condition to new or continued service shall promptly refund all such deposits, together with interest accrued to date of return, in cash or as a credit to its customers' next bills for service

B. New Jersey

N.J. Admin. Code tit. 14, § 3-7.1 Deposits for metered and telephone service

(a) If after notice of the methods of establishing credit and being afforded an opportunity, a

customer has not established credit, the utility may require a reasonable deposit as a condition of supplying service.

(b) The credit established, by whatever method, shall apply at any location within the area of the utility furnishing the service; that is, service is not to be regarded as restricted to a particular location.

(c) The amount of a deposit shall be reasonably related to the probable charge for service during a billing period based upon the average monthly charge over an estimated 12 month service period increased by one month's average bill.

III. PAYMENT PLANS

A. Iowa

Iowa Adm. Code 199-19.4(10) Payment agreements.

a. Availability--customer.

(1) When a residential customer cannot pay in full a delinquent bill for utility service and will be disconnected, a utility shall offer the customer an opportunity to enter into a reasonable agreement to pay that bill unless the customer is in default on a payment agreement.

(2) When a disconnected or potential customer for residential service has an outstanding debt to the utility for utility service, cannot pay the debt in full, and is not in default on a payment agreement, the utility must consider a request for a payment agreement.

b. Reasonableness. **Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household.** The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms. The agreement may require the customer to bring the account to a current status by paying specific amounts at scheduled times. **The utility shall offer customers or disconnected customers the option of spreading payments evenly over at least 12 months. Payments for potential customer agreements may be spread evenly over at least 6 months.**

The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules.

When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer, disconnected customer or potential customer.

The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility will render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties

entered into the oral agreement. The document will be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement.

Second agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past-due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility may also require the customer to enter into a level payment plan to pay the current bill.

The customer who has been in default of a payment agreement from November 1 to April 1 may be required to pay current bills based on a budget estimate of the customer's actual usage, weather normalized, during the prior 12-month period or based on projected usage if historical use data is not available.

d. Refusal by utility. If the utility intends to refuse a payment agreement offered by a customer, it must provide a written refusal to the customer. That refusal, with explanation, must be made within 30 days of mailing of the initial disconnection notice. **A customer may protest the utility's refusal by filing a written complaint**, including a copy of the utility's refusal, with the board within 10 days after receipt of the written refusal. If the utility intends to refuse a payment agreement to a disconnected or potential customer, it must provide a written refusal within 10 days of the application for payment agreement.

B. New York

Section 11.10 Deferred payment agreements.

(a) Utility's obligations.

(1) **A utility 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, prior to making the written offer of a deferred payment agreement required under paragraph (a)(4) of this section. A deferred payment agreement or payment agreement (also referred to as the agreement in this section) is a written agreement for the payment of outstanding charges over a specific period of time, signed by both the utility and the customer or applicant. (i) **A utility must negotiate in good faith with any customer or applicant with whom it has contact so as to achieve an agreement that is fair and equitable considering the customer's financial circumstances.**

(ii) 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.

(iii) A payment agreement must provide for installments as low as \$10 per month and no down payment, when the customer or applicant demonstrates financial need for such terms, but need not provide for monthly installments of less than \$10.

(iv) A payment agreement may provide for any size or no down payment, and installments on any schedule over any period of time if mutually agreed to by the parties.

(2) At the time a utility notifies a customer of his or her right to an installment payment plan under section 11.13(f) or 11.14(a) or (c) of this Part, the utility must also make reasonable efforts to negotiate terms tailored to the customer's financial circumstances, in accordance with paragraph (a)(1) of this section.

(3) A utility may postpone a scheduled termination of service up to 10 calendar days after the date stated in the final notice of termination for the purpose of negotiating payment agreement terms, provided that the customer is clearly advised of such postponement.

(4) A utility must make a written offer of a payment agreement by providing two copies of the payment agreement form setting forth the specific terms for payment and signed by the utility to an eligible customer or applicant at the following times:

(i) not less than seven calendar days (10 days, if mailed) before the earliest date on which termination may occur, which is either the date stated in a final notice of termination or a date, up to 10 days thereafter, to which the company has postponed the physical termination of service while negotiating a payment agreement pursuant to paragraph (a)(3) of this section;

(ii) when payment of outstanding charges is a requirement for acceptance of an application for service, in accordance with section 11.3 of this Part;

(iii) when payment of outstanding charges is a requirement for reconnection, in accordance with section 11.9 of this Part; and

(iv) as required after a broken payment agreement in accordance with paragraph (e)(3) of this section.

(5) 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.

(6) A utility must develop written payment agreement 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 company personnel, which procedures shall be filed with the Consumer Services Division.

(7) The commission or its authorized 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 has broken an existing payment agreement, except as provided in paragraph (e)(3) of this section; or

(ii) 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 is not eligible for a payment agreement because he or she has the resources to pay the bill, it may seek a determination from the commission or its designee, in accordance with the following procedures:

(i) the utility must notify the customer or applicant and the commission or its designee in writing of the reason for its belief;

(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 forthwith make a determination as to whether the customer or applicant has the resources available to pay the bill;

(iv) until such a determination is made by the commission or its designee, the utility must postpone any termination activity, restore service or provide service, as applicable, as long as the customer or applicant pays current bills, and a down payment and monthly installments consistent with subparagraph (c)(2)(ii) of this section, or such other amounts established by the commission or its designee.

(c) Terms of agreement.

(1) A payment agreement shall obligate the customer to make timely payments of all current charges.

(2) A payment agreement shall either contain:

(i) the specific terms for payment of the amount covered by the agreement mutually agreed upon by the utility and the customer or applicant after negotiation pursuant to paragraph (a)(1) of this section; or

(ii) a down payment up to 15 percent of the amount covered by the payment agreement or the cost of one half of one month's average usage, whichever is greater; unless such amount is less than the cost of one half of one month's average usage, in which case the down payment may be up to 50 percent of such amount; and monthly installments up to the cost of one half of one month's average usage or one tenth of the balance, whichever is greater.

(3) The cost of one month's average usage shall be calculated by averaging the cost of service over the prior 12 months.

(d) Form of agreement. A payment agreement form shall in clear and understandable language and format contain the following information:

(1) that the utility is required to offer a payment agreement that the customer or applicant is able to pay, considering his or her financial circumstances, and that the agreement should not be signed if the customer or applicant is unable to pay its terms;

(2) that if the customer or applicant demonstrates financial need, alternate terms will be available, a down payment may not be required and installments may be as low as \$10 per month above current bills;(3) that assistance to pay utility bills may be available to recipients of public assistance or supplemental security income from a local social services office;

(4) that if the customer or applicant is unable to pay the terms of the agreement, or if for any other reason the customer or applicant wishes to discuss the agreement, the customer or applicant should call the utility at a specified telephone number and that if any further assistance is needed, the customer or applicant should call the commission at a specified telephone number;

(5) that by signing and returning the form together with any required down payment to the utility

within the required time period, the customer or applicant will be entering into a payment agreement, and by doing so, will avoid termination of service;

(6) the date by which the copy signed by the customer, and any applicable down payment, must be received by the utility in order to avoid termination of service, if applicable; provided, however, that such date may not be less than six business days after the agreement is sent by the utility;

(7) the utility's policy if the agreement is not signed and returned as required;

(8) the total amount due, the required down payment, if any, and the exact dollar amount and due date of each installment;

(9) that if the customer or applicant fails to comply with the terms of the payment agreement, the utility will take steps to terminate service;

(10) that the customer or applicant has a right to immediate enrollment on a levelized payment plan. This notice must be placed close to the signature line, include a conspicuous check-box option, and give a specified telephone number to call the utility for more information. A brief explanation of the levelized payment plan, consistent with section 11.11 of this Part, must accompany the agreement; and

(11) that if the customer or applicant later can demonstrate that 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.

(e) 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 prior to the day when a final notice of termination will be sent, stating in conspicuous bold type 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;

(ii) if the customer can demonstrate that he or she is unable to make payment under the terms of the payment agreement because his or her financial circumstances have changed significantly because of conditions beyond his or her control, the customer should immediately contact the utility at a specified telephone number because a new payment agreement may be available.

(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 11.4 of this Part stating in conspicuous bold type:

(i) if the customer can demonstrate that he or she is unable to make payment under the terms of the payment agreement because his or her financial circumstances have changed significantly because of conditions beyond his or her control, the customer should immediately contact the utility at a specified telephone number because a new payment agreement may be available;

(ii) that assistance to maintain utility service may be available from a local social services office;

(iii) that before the social services office will provide assistance, the customer generally must provide the utility with information showing assets, income and expenses to evaluate whether the customer is entitled to a new payment agreement; and

(iv) either the address and telephone number of the appropriate social services office, or the local social services information number.

(3) Any final termination notice sent because the customer has broken an agreement negotiated pursuant to paragraph (a)(1) of this section and which required payment over a shorter period than the subparagraph (c)(2)(ii) of this section standard agreement for that customer would allow, must also be accompanied by a written offer of a new agreement to pay the outstanding balance in monthly installments calculated in accordance with subparagraph (c)(2)(ii) of this section.

IV. SERIOUS ILLNESS

A. Pennsylvania

52 Penn. Adm. Code § 56.94

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employe, who may be the utility employe designated to perform the termination, shall attempt to make personal contact with a responsible person at the residence of the ratepayer and shall attempt to make personal contact with a responsible person at the affected dwelling.

(1) Termination prohibited in certain cases. **If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employe is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination shall not occur.** However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

B. Washington

Wash. Adm. Code § 480-90-128(5):

Medical emergencies. **When the utility has cause to disconnect or has disconnected a residential service, it must postpone disconnection of service or must reinstate service for a grace period of five business days after receiving either verbal or written notification of the existence of a medical emergency.** The utility must reinstate service during the same business day if the customer contacts the utility prior to the close of the business day and requests a same-day reconnection. Otherwise, the utility must restore service by 12:00 p.m. the next business day. When service is reinstated the utility will not require payment of a reconnection charge and/or deposit prior to reinstating service but must bill all such charges on the customer's next regular bill or on a separate invoice.

(a) The utility may require that the customer, within five business days, submit written certification from a qualified medical professional stating that the disconnection of gas service would aggravate an existing medical condition of a resident of the household. 'Qualified medical professional' means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this section precludes a utility from accepting other forms of certification, but the maximum the utility can require is written certification. **If the utility requires written certification, it may not require more than the following information:**

(i) Residence location;

(ii) An explanation of how the current medical condition will be aggravated by disconnection of service;

(iii) A statement of how long the condition is expected to last; and

(iv) The title, signature, and telephone number of the person certifying the condition;

(b) The medical certification is valid only for the length of time the health endangerment is certified to exist but no longer than sixty days, unless renewed;

(c) A medical emergency does not excuse a customer from having to pay delinquent and ongoing charges. **The utility may require the customer to do the following within a five-business-day grace period:**

(i) Pay a minimum of ten percent of the delinquent balance;

(ii) Enter into an agreement to pay the remaining delinquent balance within one hundred twenty days; and

(iii) Agree to pay subsequent bills when due.

Nothing in this section precludes the utility from agreeing to an alternate payment plan, but the utility may not require the customer to pay more than this subsection prescribes. The utility must send a notice to the customer confirming the payment arrangements within two business days of having reached the agreement;

(d) If the customer fails to provide an acceptable medical certificate or ten percent of the delinquent balance within the five-business-day grace period, or if the customer fails to abide by the terms of the payment agreement, the utility may not disconnect service without first mailing a written notice providing a disconnection date not earlier than 5:00 p.m. of the third business day after the date of mailing if mailed from within the states of Washington, Oregon, or Idaho, or the sixth business day if mailed from outside the states of Washington, Oregon, and Idaho, or by personally delivering a notice providing a disconnection date of not earlier than 5:00 p.m. of the second business day following the date of delivery;

(e) A customer may claim medical emergency and be entitled to the benefits described in this subsection only twice within any one hundred twenty-day period.

V. MISC./NOTICE/LANDLORD/PROCEDURES AND TIMETABLES

A. Maine

Disconnection Notice

A. Without Notice. A utility can disconnect a customer without notice in the circumstances described in:

- Section 7(A)(6) (unauthorized use);
- Section 7(A)(8) (dangerous condition); or,
- Section 7(B) (request or abandonment).

B. **14-Day Notice.** A utility **must provide written notice of the intent to disconnect at least fourteen (14) calendar days before the stated disconnection date in any of the circumstances described in:**

- **Section 7 (A)(1) (failure to pay);**
- Section 7 (A)(5) (refusal of access);
- Section 7 (A)(7) (fraud or material misrepresentation); or
- Section 7(A)(8) (undangerous tariff provision concerning utility delivery system)

C. 3-Day Notice. A utility must provide written notice of the intent to disconnect a customer at least three (3) business days before the stated disconnection date in any of the circumstances described in:

- Section 7(A)(2) (broken payment arrangement);
- Section 7 (A)(3) (failure to provide a deposit or guarantor);
- Section 7(A)(4) (failure to apply for customer status);
- Section 7(A)(9) (failure to comply with Commission decision), unless the Consumer Assistance Division or the Commission establishes a different notice period; or
- Section 9(H) (dishonored check).

D. Time of Issuance.

1. **A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(1) (failure to pay an overdue amount) until at least thirty (30) days after the original bill is mailed.** See Section 2(J) for when a bill is considered to have been mailed. A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(2) (broken payment arrangement) and 7(A)(3) (failure to pay a deposit) until at least one (1) business day after the due date of the payment. In either case, a utility that mails disconnection notices from and requires that payment be sent to a location outside Maine must add five (5) calendar days to the time period established by this subsection.2. A utility can issue a disconnection notice for the other circumstances described in Section 7 at any time after the applicable criteria are met.

3. A telephone utility can issue a disconnections notice no earlier than five (5) business days after the postmark of the original bill (or the date of the bill if it is mailed on that date) if:

- a. the customer's account balance includes toll usage that exceeds \$500;
- b. the customer has been notified of the accelerated collection procedures with or at the same time as the original bill;
- c. the telephone utility makes personal contact with the customer or there is clear evidence of

abandonment; and,

d. the customer has refused or failed to provide satisfactory evidence of his or her ability to pay or enter into a payment arrangement for the account balance.

E. Disconnection Date. **The disconnection date stated in the notice must not be a Friday, weekend, legal holiday, the day before a legal holiday or a day when the utility's office is not open for public business.** The term "legal holiday" is defined in [4 M.R.S.A. Section 1051](#).

F. Period of Effectiveness. **A disconnection notice is effective for ten (10) business days after the disconnection date stated in the notice. If a utility fails to properly disconnect service within ten (10) business days after the disconnection date, the disconnection notice procedures must be repeated.**

G. Refusal of Access by Customer. If a customer expressly refuses to allow the utility access to the meter or other fixture or device necessary to accomplish disconnection, the ten (10) business day period provided in subsection F can begin on the date of the last refusal by the customer.

This provision applies if the utility:

1. records the date, time and manner of each attempt to disconnect service and each express refusal by the customer to allow access; and
2. has no other reasonable means to disconnect the customer other than that refused by the customer.

H. Bad Check. If the customer has paid by a check which was not honored by the bank before the expiration of the disconnection notice, the utility must attempt to obtain payment by alternate means from the customer before disconnecting service. If a check is not honored after the expiration of the disconnection notice, the utility can issue a 3-day disconnection notice and require payment by cash or certified check. A disconnection notice issued as a result of a dishonored check supersedes any other pending disconnection notice.

I. **Disconnection Notice Procedures for Leased or Rented Property.**

1. **A utility cannot disconnect a leased or rented dwelling at the request of a lessor, owner, or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount, unless:**

- a. **the tenant agrees in writing to the disconnection;**
- b. **the landlord signs a notarized statement that the premises are vacant;**
- c. **the utility by personal inspection determines that the premises are vacant; or**
- d. **the utility gives notice as described in paragraph**

2. A utility must make every reasonable attempt to deliver the notice in person to at least one adult occupant of each dwelling unit. With respect to a single meter, multi-unit dwelling, the utility must also post the notice at or near the front and rear entrances to the building or buildings affected. The notice must, in addition to the applicable disclosures of subsection J, inform the tenant how service can be continued. A utility must either offer the tenant the opportunity to obtain service in the tenant's name or otherwise assume responsibility for further payment.

3. The disconnection notice must be mailed or delivered at least ten (10) days before the disconnection date stated in the notice.

4. Before the actual disconnection of service to a single-meter, multi-unit dwelling, a utility must:

- a. have a tariff approved by the Commission that:
 - i) assesses a reasonable fee for the collection of an unpaid account balance from the landlord, in addition to an applicable reconnection fee; and
 - ii) authorizes the utility to separately meter each dwelling unit, at the landlord's expense, if the dwelling is disconnected for nonpayment of an overdue amount;
- b. apply any existing deposit to the current account balance;
- c. file the lien authorized by Title 35-A M.R.S.A., Section 706 and seek a writ of attachment; and,
- d. notify the Consumer Assistance Division of the actions taken pursuant to this subsection and their results.

5. A utility cannot require the tenant to pay for any charges incurred by the landlord or demand a deposit or advance payment based on the landlord's credit history.

6. This subsection also applies if a municipality requests the utility to disconnect residential service at a dwelling where the municipality has temporarily put the service in its name on behalf of the occupant.

J. Content of Disconnection Notice. A disconnection notice must be in writing and conspicuously contain the following information:

1. the overdue amount or the exact reason for the disconnection if not for an overdue amount;
2. what the customer must do to avoid disconnection;
3. the disconnection date and the period for which the disconnection notice is effective;
4. a statement of the customer's right to postpone disconnection for a medical emergency of the customer or an occupant and a description of how to declare a medical emergency according to Section 11;
5. a statement that the customer can avoid disconnection by negotiating a payment arrangement with affordable monthly or weekly installment payments and that the overdue amount must be paid in a reasonable period of time. This disclosure is not required if the disconnection notice is for a broken payment arrangement;
6. a statement of the customer's right to submit a disputed matter before the disconnection date to: Consumer Assistance Division, Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333- 0018; telephone 289-3831 or toll free 1-800-452-4699;
7. a statement that the customer cannot submit a dispute to the Consumer Assistance Division until the customer has first tried to resolve the dispute with the utility;
8. the title and telephone number of the appropriate utility representative and a statement that the call may be made collect from within the utility's service area, unless a toll free number is offered or calls within the utility's service area are toll free to the designated telephone number;
9. a statement of the reconnection charge, if any; and,
10. a statement of the utility's policy concerning the requirement of a deposit in the event of disconnection.

K. Plain Language Disconnection Notice. Every utility must use a plain language disconnection notice after February 1, 1989. The disconnection notice must be filed with the Commission, but does not require prior Commission approval before its use. A plain language disconnection notice should reflect the following guidelines:

1. The type size used in texts should be no smaller than 10 points high. The typeface (shape of the letters) should be designed to improve or enhance the visual size of the type. Headlines should be in larger or bold type. All text should be in capitals and lower case as opposed to ALL IN CAPITALS;

2. The color of the disconnection notice and type should avoid problems for persons whose "color deficient" sight makes all colors appear as shades of gray;

3. The use of reverse-blocks in which letters appear as white against a black or dark gray background should be avoided; and,

4. The headline on a disconnection notice should conspicuously be entitled "Disconnection Notice" in at least 12 point type.

L. Designation of Third Party to Receive Notices. Any customer may notify the utility in writing that he or she is designating a third party to receive notices concerning the customer's account. The utility must keep a record of the third party name, address and telephone number. Whenever the utility contacts the customer about matters related to deposits, disconnections, overdue amounts or hazardous conditions of utility service, the utility must make every reasonable effort to contact the third party and provide the same information at the same time it is provided to the customer. Any notice of disconnection provided to the third party must contain the disclosures required by subsection J. Nothing in this subsection obligates the third party to make payment of any amount owed by the customer, unless there is independent evidence of an obligation to pay. Every utility must inform applicants and customers of their right to designate a third party to receive notices.

VI. CASE LAW

Memphis Light, Gas and Water Division v. Craft, 436 U.S. 1, 18, 98 S.Ct. 1554, 1565 (1978):

“Utility service is a necessity of modern life; indeed, the discontinuance of water or heating for even short periods of time may threaten health and safety.”

Cambridge Electric Light Co. v. Dep’t of Public Utilities, 363 Mass. 474, 497 (1973):

“Recent decisions have indeed suggested that vital utility service on reasonable and nondiscriminatory terms is an 'entitlement' under State law guarded by the due process clause, and that termination of this necessity by a publicly regulated company, holding a publicly granted local monopoly, is tantamount to official action to which procedural guarantees of notice and hearing attach.”

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