



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS

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November 27, 2011

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

**Re: Rules And Regulations Governing
The Termination Of Residential
Electric And Natural Gas Service -
PUC Docket No. 4450**

Dear Ms. Massaro:

Enclosed for filing with the Commission, please find an original and nine (9) copies of the Rhode Island Division of Public Utilities and Carriers' comments regarding the Rhode Island Public Utilities Commission's proposed Rules and Regulations Governing the Termination of Residential Electric and Natural Gas Service in Commission Docket No. 4450.

I am forwarding an electronic copy of the Division's comments to the service list, though without Appendix A attached. Appendix A created too large a file for me to transmit electronically. However, it may be accessed directly at the LIHEAP Clearinghouse, National Center for Appropriate Technology, website at: <http://www.liheap.ncat.org/Disconnect/disconnect.htm>.

Very respectfully submitted,

Division of Public Utilities and Carriers
By its attorneys,

William K. Lueker, R.I. Bar # 6334
Deputy Chief of Legal Services

Encls.
cc: Service list

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

**RULES AND REGULATIONS)
GOVERNING THE TERMINATION)
OF RESIDENTIAL ELECTRIC)
AND NATURAL GAS SERVICE)**

Docket No. 4450

**COMMENTS OF THE RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

The Rhode Island Division of Public Utilities and Carriers (“Division”) submits the following Comments regarding the Rhode Island Public Utilities Commission’s (“Commission”) proposed *Rules and Regulations Governing the Termination of Residential Electric and Natural Gas Service* (“Rules”) noticed for hearing on November 21, 2013, and for submission of written comments by the close of business on November 27, 2013.

Preface

First of all, the Division would like to make it clear that it supports the Public Utilities Commission’s decision to revise its current rules and regulations regarding the termination of residential public utility services (“*Termination Rules*”) with a view toward bringing those Commission rules more closely in line with the Commission’s existing statutory authority. Rules and regulations which worked well to impose some order on the termination

practices of a dozen or more public utilities operating in this state fifteen or more years ago, each of which had its own policies and practices for terminating its customers' services for non-payment, simply have not proven to work as well in an environment with only a handful of public utilities¹ and a more challenging economy.

Indeed, over time the *Termination Rules* have changed in practice from serving as a mechanism for ensuring that the customers of all utilities were being treated roughly the same when it came to termination of services for non-payment into a mechanism for simply delaying termination of service for non-payment regardless of the reason for that non-payment. This change, which does not serve the interests of the rate paying public as a whole, cannot be viewed as in the best interests of the state.² It is, unfortunately, a change for which all stakeholders (including the Division) must bear some responsibility. We welcome this first step toward reinstating some order into an important process, and we recognize that the Division will need to develop, promulgate and implement complementary rules on its own as expeditiously as possible.

It is easy to understand how our current regulatory environment evolved. Both the Commission and the Division can trace their origins to a late-

¹ Prior to this year, the Division had not had any termination cases involving either The Block Island Power Company or The Pascoag Utility District; it conducted its first couple of Informal Reviews involving The Pascoag Utility District just in the past few months, and still has not had to hold a formal hearing involving either of these two small utilities. The small utilities are far more susceptible to cash flow disruptions than is National Grid, and it is our understanding that as a result they begin working with a customer at the first sign of the customer having a problem making timely payments.

² Indeed, the total bad debt allowance for National Grid (gas and electric combined) for calendar years 2008 through 2012 is over \$130,000,000.00. About 85% of this amount was attributable to residential accounts (mostly standard residential customers as opposed to low income residential customers). This is not a trivial amount.

19th/early-20th Century Railroad Commission. Our joint evolution since then has been, at best, convoluted with the two agencies sometimes combined into a single agency, sometimes organized (as now) as two separate agencies, and sometimes a blend of separate and combined regulatory bodies. Our mutual history, not too surprisingly, has resulted in a sometimes confusing and overlapping division of statutory authorities and responsibilities. The resulting administrative regulations, which have evolved apace with our statutory purposes, have sometimes suffered as a result. The current *Termination Rules* illustrate this too often convoluted process.

In 1985, when the *Termination Rules* were originally promulgated, they were issued jointly by the Commission and the Division, a fact that allowed the *Termination Rules* to be grounded on the statutory authority granted to both agencies; when these rules were reissued in 2002, however, they were reissued only by the Commission, and thus could only be grounded in the statutory authority granted that single agency.

Unfortunately, while R.I.G.L. § 39-3-33 provides that the “***division shall make such reasonable rules as will aid in the administration and enforcement of chapters 1—5 of this title,***” there is no comparable broad statutory grant of rule-making authority to the Commission.³ The

³ Although R.I.G.L. § 39-1-38 does provide that “the provisions of this title shall be interpreted and construed liberally in aid of its declared purpose...” and R.I.G.L. § 39-1-32 does provide the Commission with broad emergency powers. The emergency powers, however, contemplate acting only when “failure to act immediately will result in irreparable injury to the public interest” or when necessary to act to prevent a utility to fail due to financial problems. This emergency relief is supposed to be of very temporary duration, “until formal notice be given and a hearing had of the parties in interest.” Winter, which comes every year and can be planned

Commission's statutory authority to promulgate the 2002 and later amendments of the current *Termination Rules* comes in bits and pieces from a number of statutes, none which, individually or collectively, appear to provide authority for all of the provisions included in the current *Termination Rules*, particularly with respect to simple nonpayment (i.e., the customer is neither elderly nor seriously ill/disabled).

For example, R.I.G.L. § 39-1.1-1(a) requires gas and electric utilities to comply with Commission rules before terminating their services to households for indebtedness (i.e., nonpayment) in which "all adult residents are sixty-five (65) years of age or older, or where any resident is disabled or seriously ill." Similarly, R.I.G.L. § 39-1.1-2(a) requires the Commission to promulgate rules determining "which elderly, disabled, or seriously ill" customers are subject to the protections of R.I.G.L. § 39-1.1-1(a) [although the subsection is not specified, it is clear that only § 39-1.1-1(a) is contemplated here, as § 39-1.1-1(b) is concerned with indebtedness only, not "elderly, disabled, or seriously ill" customers, the customers covered by § 39-1.1-1(a), and mentions neither the Commission nor rule-making.] Another statute that focuses on the character of a resident rather than debt collection is R.I.G.L. § 39-1.1-2.1, which requires the Commission to promulgate rules regarding the termination of gas and electric service to households where a child under the age of 2 is domiciled.

for every year, probably cannot by itself be viewed as an "emergency" requiring Commission action.

R.I.G.L. § 39-1.1-3, however, introduces a twist of sorts, since while it requires the Commission to promulgate rules to ensure that “termination of utility service for outstanding indebtedness shall be authorized only after the utility has complied with reasonable methods of debt collection ***as defined by the Division,***” it clearly leaves the determination of what constitutes “reasonable methods of debt collection” to the Division. (***Emphasis*** supplied.) Thus, for indebtedness (i.e., nonpayment) situations, it is the Division, not the Commission, which has the statutory authority to determine whether the public utility has made reasonable efforts to collect what it is owed short of termination; the only authority the Commission has in indebtedness cases is to promulgate rules for evaluating whether the public utility has utilized the reasonable debt collection methods approved by the Division.

In Chapter 2 of Title 39, specifically R.I.G.L. § 39-2-1(b), the General Assembly provided: “Any ***existing*** rules and regulations dealing with the termination of utility service and establishing reasonable methods of debt collection promulgated by the commission ***pursuant to this chapter*** and the provisions of § 39-1.1-3 [which actually assigns responsibility for determining reasonable methods of debt collection to the Division, not to the Commission], including but not limited to, ... deferred payment arrangements, winter moratorium and medical emergency protections, and customer dispute resolution procedures, ***shall be applicable to any public utility which distributes electricity.***” (***Emphasis*** supplied.) Thus, the Commission does not appear to have any authority under this section to regulate the termination

of water or gas utility services, and limited (if any) authority to address reasonable debt collection methods with respect even to electric distribution – since the determination of what constitutes reasonable methods of debt collection is left to the Division under R.I.G.L. § 39-1.1-3.

R.I.G.L. § 39-2-1(d), on the other hand, requires the Commission to “administer such rules” as “may be necessary to implement the purpose of” the Henry Shelton Arrearage Forgiveness Act with regards to LIHEAP eligible customers only. The only role assigned to the Division by the General Assembly under R.I.G.L. § 39-2-1 is to determine whether or not a customer is reasonably likely to be able to comply with a Henry Shelton Act Arrearage Forgiveness Plan under R.I.G.L. § 39-2-1(d)(2)(IV) if a customer is otherwise eligible to participate in such a plan.

None of the statutory provisions regarding the Commission promulgating or administering rules with respect to the termination of public utility services authorizes the Commission to delegate any part of the Commission’s (limited) statutorily assigned responsibilities under those sections to any other agency, whether that agency is this Division, the Division of Motor Vehicles, the Department of Health and Human Services, or any other. However, since the Division has broad statutory and regulatory authority (and responsibility) for resolving billing disputes between customers and public utilities (*see generally* R.I.G.L. §§ 39-1-1, 39-1-3, 39-1-15, 39-1-38, 39-1.1-3, 39-2-1(a), 39-2-2, 39-2-3, 39-2-4, 39-3-13.1, 39-4-1 *et seq.*, 39-12-1 *et seq.*, 39-12.1-1 *et seq.*, 39-13-1 *et seq.*, 39-14-1 *et seq.*, 39-14.1-1 *et seq.*, and others) in its own right, since

the Division has two sections (Consumer Section and Motor Carrier Section) devoted largely to mediating and resolving consumer disputes, because the Division has staffing to allow it to provide the Informal Review and Formal Hearing procedures specified in the Commission's current *Termination Rules*, and because the procedures established in the current *Termination Rules* are generally consistent with the statutory authority granted the Division throughout R.I.G.L Title 39, chapters 1-4, the Division acquiesced with the Commission-established termination procedures, though technically it has had to carry out those procedures under color of its own statutory authority (since the Commission was not granted the authority to delegate its own statutorily assigned responsibilities to the Division).

**Division Comments and Recommended Changes
to the Commission's Proposed Rules**

1. **Proposed Rule 2.0 reads as follows:** "The purpose of these Rules and Regulations is to implement the statutory requirements that public utilities which distribute electricity or supply natural gas to residential customers must follow prior to the termination of utility service."

Change to read: "The purpose of these Rules and Regulations is to carry out the direction of the General Assembly, as expressed in the Rhode Island General Laws, that the Public Utilities Commission promulgate rules governing the procedures that public utilities which distribute electricity or supply natural gas to residential customers must follow prior to terminating the utility services of certain residential customers for non-payment of their utility service bills."

As the Division noted in its Preface to these comments, the General Assembly has granted the Commission relatively limited authority with respect

to the termination of residential electric and gas public utility services. That authority applies in only certain specified circumstances, and generally only with respect to terminating residential services for non-payment. As currently drafted, the “Purpose” statement may be read to include limitations on terminating gas and electric public utility services even when that termination is at the request of the customer (i.e., the customer is moving to a new residence, and wants the old service terminated). These rules, like the statutes cited by the Commission in Proposed Rule 1.0 as the source of its authority to issue these rules, should be clearly limited to residential customers whose services are being terminated involuntarily due to non-payment of their utility service bills.

2. Proposed Rule 3.0 – Definitions: This Rule, like Rule 2.0, refers to the term “public utility” but contains no definition of that term.

Change by adding: “_. ‘Public utility,’ as used in these Rules and Regulations, shall be limited to those companies doing business in Rhode Island as electric distribution companies and natural gas distributions companies within the meaning of R.I.G.L. § 39-1-2(20).”

As currently proposed the *Rules* make frequent reference to the term “public utility” but contains no definition of that term. The Division believes that the Commission should add a definition of “public utility” to its list of defined terms in Proposed Rule 3.0, and proposes using a shortened version of the statutory definition of that term as it pertains to electric and gas service distribution companies.

3. Proposed Rule 3.0.G reads as follows: “National Grid’ means The Narragansett Electric Company d/b/a National Grid or its successor.”

Delete Proposed Rule 3.0.G.

The stated purpose (*Rule 2.0*) of the proposed *Rules* states that they apply to all “public utilities which distribute electricity or supply natural gas to residential customers” and not just to one of those companies. (At present, such companies include the Block Island Power Company and the Pascoag Utility District. The regulated companies could change further, particularly if National Grid should ever decide to sell off all or portions of its business units.⁴) Therefore Rule 3.0 should either include a definition of all regulated utilities subject to these proposed *Rules*, or it should include no definitions at all.

The proposed *Rules* contain only one other reference to National Grid in the body of the proposed *Rules* (*Rule 5.0.A*). That reference deals with a general prohibition against terminating gas or electric services to households experiencing Financial Hardship under certain circumstances found in R.I.G.L. § 39-1.1-1(b). Rather than stating that the prohibition applies only to National Grid, however, the statute states that it applies to all gas and electric

⁴ In fairness to all concerned, as a practical matter the existing *Termination Rules* have only been applied to National Grid and its predecessor companies – but only because the Division has not received a complaint under the existing *Termination Rules* from any primary residential customer of either the Block Island Power Company or the Pascoag Utility District in more than 15 years (if ever). We do not believe that the absence of complaints from Block Island and Pascoag is due to an absence of financial hardship among their customers, but rather to those companies reaching out to their customers as soon as they see payments coming in late and work with those customers to resolve their problems before their balances become completely unmanageable. Smaller companies – for whom cash flow is critical – may simply be better positioned and motivated for this type of early intervention than a large company would be.

distribution companies except the Block Island Power Company and the Pascoag Utility District; those two utilities, and only those two utilities, are expressly exempted from that provision of the law. There is, therefore, no reason to define “National Grid” (though one could make a case for defining the Block Island Power Company and/or the Pascoag Utility District; the Division does not, however, believe that such definitions are necessary in these *Rules*).

- 4. Proposed Rule 3.0.I reads as follows:** “‘Seriously ill’ shall mean an illness that is life-threatening or that will cause irreversible adverse consequences to human health or that has a significant potential to become life threatening [sic] or to cause irreversible adverse consequences to human health.”

Change to read: “‘Seriously ill’ shall mean that a person is suffering from a disabling physical or mental illness, injury, impairment, or condition that involves inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider (for example, regular home visits by, regular doctor’s appointments for maintenance treatment).”

The proposed change is based on the language adopted by the General Assembly as a definition for “serious illness” set out in R.I.G.L. § 28-48-1(7), otherwise known as the “Rhode Island Parental and Family Medical Leave Act” (“PFMLA”). The PFMLA implementing regulation issued by the Rhode Island Department of Labor and Training Labor Standards Division in “Administrative Regulations RIGL 28-48” essentially quotes from the statute and does nothing to shed further light on what the General Assembly intended when it passed this legislation.

However, the definition of “serious illness” in the PFMLA, in turn, appears to have been adapted from the Federal definition of a “serious health

condition” found in the Federal “Family and Medical Leave Act” (“FMLA”) at 29 U.S.C.A. § 2611(11).

The Rhode Island PFMLA definition appears to have been adapted from the definition of a “Serious Health Condition” set out in 29 U.S.C.A. § 2611(11):

The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves—

- (A) inpatient care in a hospital, hospice, or residential medical care facility; or
- (B) continuing treatment by a health care provider.

Unlike in Rhode Island, the Federal statute’s implementing regulations provide additional clarity with respect to what constitutes a “serious health condition” (for the purposes of the Federal Family and Medical Leave Act):

§ 825.114 What is a “serious health condition” entitling an employee to FMLA leave?

(a) For purposes of FMLA, “serious health condition” entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health

care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a

health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee’s use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee’s health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

29 C.F.R. § 825.114, effective January 1, 2008. There is significant case law detailing what types of conditions, and under what circumstances, constitutes a “serious health condition” within the meaning of the Federal FMLA. *See generally* 169 A.L.R. Fed. 369.

However, with all of this in mind, it is important to remember that both the “Rhode Island Parental and Family Medical Leave Act” and the Federal “Family And Medical Leave Act” are concerned solely with the circumstances under which an employee will be entitled to take time off work due to personal or family illness without jeopardizing that employee’s employment status. Our statute, however, instead focuses solely on the administrative due process required before certain customer’s may have their utility service terminated for non-payment. *See* R.I.G.L. § 39-1.1-1(a).

The required due process is specified in R.I.G.L. § 39-1.1-2. The Commission is charged by § 39-1.1-2(a) with defining what constitutes a “seriously ill” resident. The procedures to implement that definition are set out in § 39-1.1-2(b), and begin with a physician certification that someone is “seriously ill.” Physicians are, presumably, more familiar with the definition set out in the PFMLA than in any Commission-issued regulation (since everyone, employees and employers are required to be familiar with that Act, but only residential customers need be familiar with utility regulation). Therefore, it simply makes sense to adopt the same definition as the PFMLA, since the certifying entity (physicians) are probably already familiar with that language.

5. Proposed Rule 3.0.J reads as follows: “Termination Notice’ means a written notice provided to the customer of record through the mail, or by electronic means if previously agreed to by the customer of record, no less than ten (10) days prior to the effective date of the proposed termination of service.”

Change to read: “Termination Notice’ means a written notice provided to the customer of record through the mail no less than ten (10) days prior to the effective date of the proposed termination of service.”

The proposed change simply deletes the reference to notice “by electronic means if previously agreed to by the customer of record.” This deleted language was strongly objected to by representatives of the George Wiley Center during the Commission’s public hearing in this docket on November 21, 2013. The argument advanced was that a customer whose electricity was terminated might no longer have the ability to receive such electronic notifications in a timely fashion. To the extent that the customer had originally planned to receive utility company notifications over a home computer, as opposed to a cell phone or similar device, this represents a valid concern. We believe that electronic notifications might best be used to supplement initial written notifications by traditional mail delivered by the U.S. Postal Service.

The statutory basis for this notice requirement is found at R.I.G.L. § 39-2-1(a), which provides, in pertinent part:

...[N]o public utility providing heat, light, water, or power produced, transmitted, distributed, delivered, or furnished shall terminate the service or deprive any home or building, or whatsoever, of service **if the reason therefor is nonpayment** of the service without first notifying the user of the service, **or the owner or owners of the building** as recorded with the utility of the impending service termination by written notice at least ten (10) days prior to the effective date of the proposed termination of service.

(**Emphasis** supplied.) There are two important, but often overlooked, facets of this statute. The first is that the ten day written notice requirement imposed therein applies only when the reason for termination of service is nonpayment;

it does not apply if the reason for termination for such other reasons as violation of applicable rules by the customer or for fraudulent use of service. The second is that this statute does not require that the ten day written notice be sent to the customer; it allows the public utility to send the written notice to owner or owners of the building (which could be either residential or commercial, single or multiple tenants).

The Division has addressed this issue in its own utility rules, separate and apart from any Commission rules. With respect to electric utilities, the Division's rule is as follows:

H. Discontinuance of Service.

2. By the Public Utility:

(a) Non-Payment of Bills. In accordance with the provisions of the applicable rate or terms and conditions of service, a public utility may require that bills be paid within a specified time after presentation. On and after thirty (30) days from the date of presentation service may be discontinued for non-payment ***provided written notice to the customer*** has been deposited ***in the U.S. mail at least ten (10) days prior to the date of discontinuance***....Service must not be discontinued on a Friday, a Saturday, or the day before a holiday.

Part III, Section H, *Rules Prescribing Standards For Electric Utilities*, Division of Public Utilities and Carriers, effective September 21, 2004 (***all emphasis supplied***). It is worth noting that the Division's rule extends more protection to the electric utility customer than does the underlying statute, in that: (1) the Division rule requires written notice to the customer and does not accept notice to the building owner(s) as a reasonable alternative; and (2) the Division rule, in its next subsection, imposes a similar ten day written notice requirement for terminations related to rules violations (except immediate shut-off is required

in the interests of public safety or pursuant to a government order), something not addressed at all by the statute. It is also important to note that the Division rule makes reference to the “applicable rate or terms and conditions of service.” Every public utility has to submit both its proposed rates and its terms and conditions of service, including notice practices prior to termination for nonpayment or for other reasons, to the Commission for approval. Once approved by the Commission, those terms and conditions are accorded the same weight as a Commission-issued rule, and are binding on both the public utility **and its customers.**

With respect to natural gas distribution utilities, the Division’s rules provide, in pertinent part, as follows:

8. Discontinuance of Service

...

b. Discontinuance of Service by the Company

i. Non-Payment of Bills

In accordance with the provisions of the applicable rate or terms and conditions of service, and LDC [local distribution company] may require that bills be paid within a specified time after presentation. Failure to pay bills within the specified time shall be grounds for termination of service. The LDC may then initiate its termination process consistent with the rules established by the Commission for that purpose.

...

Part A, Section 8.b.i, *Rules And Regulations Prescribing Standards For Gas Utilities, Master Meter Systems And Jurisdictional Propane Systems*, Division of Public Utilities and Carriers, effective October 5, 2006. In this case, unlike with electric utilities, the Division rule does not contain an explicit requirement for written notice ten days in advance of termination, instead incorporating the

Commission's rules by reference. Since both the current Commission *Termination Rules* and the proposed Commission *Rules*, as well as the underlying statute, require ten day written notice, that is also what the Division requires. The Division's gas rules, like its electric utility rules, also go on to impose a specific requirement for "written notice mailed at least ten (10) business days in advance of discontinuance" for termination of service related to a violation of applicable rules (as opposed to for nonpayment);⁵ again, this is in excess of the statutory notice requirement which does not address termination for rules violations, and (by specifying business days rather than the calendar days that would otherwise be inferred) actually exceeds the statutory notice requirement by at least two (2) calendar days.⁶

6. Proposed Rule 3.0 – Definitions: As noted above, the Commission is charged with defining what constitutes a "disabled or seriously ill" person, but Rule 3.0 contains only a definition of "seriously ill" and not "disabled."

Change by adding: "_. 'Disability' means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual. The individual shall not be viewed as "disabled" if the impairment is transitory and minor. A transitory impairment is one with an actual or expected duration of six (6) months or

⁵ R.I.G.L. § 39-2.1-3(a) gives gas distribution utilities a statutory right to access to any and all gas regulators or gas meters located inside residential property "not less than every thirty-six (36) months." The gas utility is authorized to terminate service to any residential property whose owner fails to grant it access and to relocate the gas regulator or gas meter to the exterior of the property. The statute does not specify any notice prior to termination, but under the Division's rules, ten days written notice would be required.

⁶ The Division computes time as set out in Rule 10(a) of its *Rules of Practice and Procedure*: "Except as otherwise provided by law, in computing any period of time prescribed or allowed by any rule regulation or order of the Division, or by any applicable statute, the date of the act, event, or default from or after which the designated period of time begins to run shall not be included, but the last day of the period so composed shall be included unless it is a Saturday, Sunday or legal holiday in Rhode Island, in which event the period shall run until the end of the next business day." This provision is consistent with Rule 6(a) of the Rhode Island Superior Court Rules of Civil Procedure.

less. For purposes of this definition, “major life activities” include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.”

The proposed new definition is based on the relevant definitions for a “disability” adopted by the General Assembly in R.I.G.L. § 42-87-1(1). Chapter 87 of Title 42 of the Rhode Island General Laws is entitled “Civil Rights Of People With Disabilities.” The General Assembly has adopted this same definition of “disability” [R.I.G.L. § 42-87-1(1)] in the “State Fair Employment Practices Act” (Chapter 5 of Title 28 of the Rhode Island General Laws). See R.I.G.L. § 28-5-6(4). The Division believes that, given the General Assembly’s clear preference for the definition of “disability” set out in R.I.G.L. § 42-87-1(1), a similar definition based on that statute and tailored to meet the needs of R.I.G.L. § 39-1.2(a) should be adopted by the Commission along the lines of the proposed definition set out above. The Division agrees that the procedures applicable to the disabled (and, for that matter, the elderly) should be addressed by the Division’s rules and regulations pertaining to the reasonable methods of debt collection practices to be followed by the public utilities covered by the Commission’s proposed rules.

- 7. Proposed Rule 3.0.K reads as follows:** “Winter Moratorium Period’ shall mean the period of time between 12:01 a.m. on November 1st and 11:59 p.m. on March 31st of each year unless extended by the Division.”

ALTERNATIVE 1 (preferred)

Change to read: “Winter Utility Service Termination Moratorium Period’ shall be a period of time as set out by the Division during which residential electric and gas utility service customers who fall within the Financial

Hardship classification as set out in Rule 3.0.__, above, may be afforded additional protection against the termination of their utility service(s) for nonpayment.”

ALTERNATIVE 2

Change to read: “Winter Utility Service Termination Moratorium Period’ shall mean the period of time between 12:01 a.m. on November 15th and 11:59 p.m on March 15th of each year unless extended by the Division. The Winter Utility Service Termination Moratorium Period applies only to those residential electric and gas utility service customers who fall within the Financial Hardship classification as set out in Rule 3.0.__, above.”

- 8. Proposed Rule 4.0.D reads as follows:** No Electric Utility or Gas Utility may terminate service to any household which qualifies under the definition of Financial Hardship during the Winter Moratorium Period.

Change to read: “No Electric Utility or Gas Utility may terminate service to any household which qualifies under the definition of Financial Hardship as set out in Rule 3.0.__, above, during the Winter Utility Service Termination Moratorium Period. Provided, however, that customers/households protected from shutoff during the Winter Utility Service Termination Moratorium Period, as a condition for remaining eligible for shutoff protection during the Winter Utility Service Moratorium Period, shall be required to make monthly payments in amounts sufficient to at least cover the bills for current services received during the Winter Utility Service Moratorium Period.”

These two proposed rules are related and call for similar changes and will be discussed together. The recommended change to proposed rule 4.0.D would really only come into play if the Commission rejects the Division’s proposed Alternative 1, above, with respect to proposed rule 3.0.K; if the Commission agrees with Alternative 1, it could simply delete proposed rule 4.0.D entirely.

The definition in the proposed rule, while it makes clear that the “moratorium” so defined exists only during the winter months between

November 1st and March 31st, fails to identify the nature of the moratorium. The Division believes that the definition should make it explicitly clear that this is a utility service termination moratorium period (as opposed to, for example, a moratorium on paying one's utility bills), and applies only to residential customers experiencing financial hardship (i.e., the customer has not been paying his or her utility bill ***only because the customer's household has "a combined gross income equal to or less than 60% of the Rhode Island median income" and therefore the customer cannot afford to pay his or her full utility bill***).

Further, the Division believes that it is the Division, not the Commission, which actually has the statutory authority to establish a Winter Utility Service Termination Moratorium Period. The Commission's authority in this area, to the extent that it has such authority, traditionally rested on the emergency powers of the Commission under R.I.G.L. § 39-1-32:

Emergency powers of commission. – (a) Any general or public law notwithstanding, the commission, when it determines that public safety so requires, or that failure to act immediately will result in irreparable injury to the public interest, or that an emergency exists in the financial affairs of a public utility which, if not met immediately, will interfere with the accommodations, convenience, and welfare of the people, may issue an order effective immediately, but for temporary duration, until formal notice be given and a hearing had of the parties in interest

(Emphasis supplied.) Clearly, this is not a grant of general rule-making authority, but rather authority for the Commission to act quickly to address an emergency situation on a temporary basis pending a more permanent resolution (should one be required). The statute did not say that it was the

Commission's responsibility to act to address these emergent public safety/welfare issues on a long-term basis, only that the temporary relief fashioned by the Commission could only last "until formal notice be given and a hearing had of the parties in interest"; the statute is silent as to whether the "notice and formal hearing" are to be offered by the Commission or Division, presumably relying on the statutory framework of Title 39 as a whole to assign regulatory responsibility for long-term solutions. It is the Division's position that, while the Commission could, and often did, properly address petitions requesting emergency protection from utility terminations during the winter, crafting a permanent termination moratorium period actually is an element of what constitutes "reasonable methods of debt collection," something which the General Assembly has specifically assigned to the Division to define (see 39-1.1-3; see *generally* R.I.G.L. §§ 39-1-3(b), 39-1-15, 39-3-8, 39-3-10, 39-3-13, 39-3-13.1, 39-3-14, 39-4-3, 39-4-4, 39-4-5, 39-4-6, 39-4-9, 39-4-10, 39-4-11.1, 39-4-13, 39-4-14, 39-4-15).

The Division believes that the Commission is relying upon R.I.G.L. § 39-1.1-4 as the basis for its claim to have statutory authority to establish a Winter Utility Service Termination Moratorium Period. That statute reads, in pertinent part, as follows:

39-1.1-4. Effect on existing rules.⁷ – Nothing in this chapter is intended to modify any existing or proposed rules and regulations

⁷ As originally enacted in P.L. 1979, ch. 410, art. 5, §1, this section was actually entitled "Severability" rather than "Effect on existing rules." It appears that the Compiler of the General Laws changed the title because R.I.G.L. 39-1.1-5, drawn from Art. 8, §1, of the same Public Law, was also entitled "Severability." Presumably the Compiler thought maintaining the same section title for two consecutive sections in the same chapter of the General Laws would simply be confusing. The Compiler was probably right.

dealing with utility termination during winter months as defined by the commission....

(Emphasis supplied.) When this statute was first adopted in 1979, however, there do not appear to have been any “existing or proposed rules and regulations dealing with utility termination during winter months.”

Instead, what we find, beginning at least as early as 1977, are a series of Orders, apparently issued by the Commission under its emergency powers [R.I.G.L. 39-1-32(a)], that establish temporary utility termination moratoria each winter on a case-by-case basis. See *In Re The Adoption Of Certain Rules And Regulations*, Commission Order number 9439, dated and effective December 6, 1977, in Commission Docket number 1325 (emergency rulemaking under R.I.G.L. § 42-35-3 establishing winter moratorium from 12:01 a.m. on December 6, 1977, through 11:59 p.m. on March 31, 1978).

At some point following the 1977 Order, the Commission appears to have settled on approving annually a Winter Utility Service Termination Moratorium Period beginning each year on November 20 and continuing through March 31, a period of about 132 days; in order to be protected from termination, though, the customer’s delinquent balance as of November 20 had to be \$275.00 or less for their primary heating utility, \$110.00 or less for a utility that was not the customer’s primary sources of heat (i.e., if the delinquent balance exceeded these limits, the customer’s delinquent utility service could be terminated, moratorium or no moratorium).

In early 1981, in response to an emergency petition seeking to extend the moratorium until customers who were eligible for it could apply for heating

assistance payments under The Governor's Home Energy Assistance Program, the Commission elected to extend the termination moratorium for all customers through April 15, 1981. Thus, the annually (requested and) approved utility termination moratorium was temporarily lengthened to run from November 20 through April 15, 1981, a period of about 147 days. *See In Re Adoption Of Emergency Regulations*, Commission Order number 10401, dated and effective March 30, 1981, in Commission Docket number 1324. The Order does not discuss how customers would qualify for The Governor's Home Energy Assistance Program, why the additional fifteen days would make a difference in the customers avoiding termination, nor why this additional time was also afforded customers who could not qualify for The Governor's Home Energy Assistance Program.

Some seven months later, the Commission again adopted an emergency regulation concerning the utility termination moratorium, this time changing the initial date from November 20 to November 1, thus creating a temporary utility service moratorium that extended from November 1, 1981, through March 31, 1982 (a period of about 136 days). The rationale for this change was that October 1981 was running significantly colder than October 1980, and the Commission was convinced that it should respond to this temporary weather fluctuation with a temporary adjustment of the moratorium period; the temporary rule was set to expire November 20, 1981. *See In Re Adoption Of Emergency Regulations*, Commission Order number 10551, dated and effective October 28, 1981, in Commission Docket number 1324. This moratorium was

again temporarily extended in an emergency rule-making to extend the 1981-82 moratorium to April 15, a period of about 151 days. See *In Re Adoption Of Emergency Regulations*, Commission Order number 10648, dated and effective March 19, 1982, in Commission Docket number 1324.

This pattern of annually extending the utility service moratorium on a temporary emergency basis in the Spring continued for the next two years. See generally *In Re Adoption Of Emergency Regulations*, Commission Order number 10899, dated and effective March 25, 1983, in Commission Docket number 1324; *In Re Adoption Of Emergency Regulations*, Commission Order number 11200, dated and effective March 27, 1984, in Commission Docket number 1324; *In Re Petition For An Amendment Of The Rules And Regulations Governing Termination Of Service*, Commission Order number 11599, dated and effective March 28, 1985, in Commission Docket number 1725.

The Commission and Division jointly promulgated a new set of comprehensive residential utility service termination rules in the summer of 1985, officially establishing for the first time a permanent (as opposed to emergency) utility service termination moratorium period would henceforth run annually from November 1 through April 15 each year. See *In Re Petition For An Amendment Of The Rules And Regulations Governing Termination Of Service*, Commission Order number 11676, dated and effective June 7, 1985, in Commission Docket number 1725. Thus, the first time we find a “permanently defined” winter utility termination moratorium period, it appears in a set of rules issued jointly by the Division and Commission; that is, this first

permanent rule establishing an annual moratorium appears in the record only after the Division participated in a rule-making.

“Emergency” requests to further extend the new annual termination moratorium period began immediately, and were apparently granted annually. *See generally* (all Orders were issued in Commission Docket number 1725 unless otherwise noted) *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 11959, dated and effective March 24, 1986 (moratorium extended through April 15, 1986); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 12282, dated and effective March 20, 1987 (moratorium extended through April 16, 1987); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 12559, dated and effective March 21, 1988 (moratorium extended through April 15, 1988); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 12942, dated and effective March 31, 1989 (moratorium extended through April 16, 1989); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 13251, dated and effective March 29, 1990 (moratorium extended through April 16, 1990); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 13586, dated and effective March 29, 1991 (moratorium extended through April 15, 1991); *In Re Adoption Of Emergency Regulation Regarding*

Gas And Electric Utility Service Terminations, Commission Order number 13890, dated and effective April 1, 1992 (moratorium extended through April 15, 1992); *In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 14168, dated and effective March 31, 1993 (moratorium extended through April 15, 1993); *In Re Moratorium On Termination Of Gas And Electric Service*, Commission Order number 14443, dated March 31, 1994 and effective March 22, 1994 (moratorium **extended through April 29**, 1994), *ratified by In Re Adoption Of Emergency Regulation Regarding Gas And Electric Utility Service Terminations*, Commission Order number 14445, dated April 5, 1994, and effective March 22, 1994 (moratorium extended through April 29, 1994); *In Re Moratorium On Termination Of Gas And Electric Service*, Commission Order number 14943, dated March 27, 1996 and effective March 19, 1996 (moratorium extended through April 16, 1994), *later amended by In Re Moratorium On Termination Of Gas And Electric Service*, Commission Order number 14963, dated April 12, 1996 and effective April 10, 1996 (moratorium **extended through April 30**, 1996); *In Re Adoption Of Emergency Regulations Regarding Gas And Electric Utility Service Terminations*, Commission Order number 15275, dated April 15, 1997, and effective March 31, 1997 (moratorium extended through April 7, 1997); *In Re Adoption Of Emergency Regulations Regarding Gas And Electric Utility Service Terminations*, Commission Order number 15568, dated March 26, 1998, and effective March 24, 1998 (moratorium extended through April 15, 1998); *In Re Adoption Of Emergency Regulations Regarding Gas And Electric*

Utility Service Terminations, Commission Order number 15818, dated March 31, 1999, and effective March 30, 1999 (moratorium extended through April 15, 1999).

After what appears to be a gap of three years, the petitions for “emergency” extensions of the winter utility termination moratorium period began again, though with less success. See *In Re Regulations Governing Termination Of Residential Electric, Gas And Water Utility Service*, Commission Order number 16831, dated January 28, 2002, and effective October 24, 2001 (**emergency moratorium extension request denied**); *In Re Moratorium On Termination Of Gas And Electric Service*, Commission Order number 17435, dated April 22, 2003, and effective April 15, 2003 (**emergency request to extend moratorium to May 1, 2003, denied**); *In Re Regulations Governing Termination Of Residential Electric, Gas And Water Utility Service*, Commission Order number 17617, dated November 21, 2003, and effective October 30, 2003 (**emergency moratorium extension request denied**); *In Re Moratorium On Termination Of Gas And Electric Service*, Commission Order number 17805, dated April 16, 2004, and effective April 15, 2004 (**emergency moratorium extension request denied**); *In Re Request To Extend The Winter Moratorium*, Commission Order number 18941, dated May 3, 2007, and effective April 13, 2007 (**emergency moratorium extension request denied**, Commissioner Bray dissenting); *In Re Request To Extend The Winter Moratorium*, Commission Order number 20332, dated and effective April 14, 2011 (**emergency moratorium extension request** of Senate President and House Speaker

approved through May 2, 2011); *In Re Regulations Governing Termination Of Residential Electric, Gas And Water Utility Service*, Commission Report and Order number 20352, dated May 1, 2011, effective May 5, 2011 (**request to extend moratorium to July 1, 2011, denied**); *In Re Request To Extend The Winter Moratorium*, Commission Order number 20696, dated April 11, 2012, 2007, effective April 13, 2007 (**request to extend moratorium to May 1, 2012, approved**).⁸

In 2002, the Commission issued new *Termination Rules* which, among other things, continued the winter utility service termination moratorium provisions of the 1985 rules which had been jointly issued by the Commission and the Division. The Division never acted to rescind the 1985 rules that had rested, in part, on the Division's statutory authority, but acquiesced in generally complying with the Commission's 2002 rules.

Thus, for most of the past 40 or so years, the Commission has only addressed a winter utility service moratorium in the context of an emergency petition. A permanently defined moratorium does not appear to have been established until the Division joined with the Commission in issuing comprehensive termination rules. We believe that establishing a permanent defined winter utility service moratorium period belongs within the regulatory purview of the Division.

⁸ There were some years in which the public utilities apparently agreed informally not to terminate low-income customers through May 1, thus eliminating the need for the Commission to issue an emergency Order.

The second change we would make to this proposed rule (assuming the Commission does not agree that it should leave this issue to the Division) is to shorten the utility termination moratorium period to four months which more closely approximates the winter season here in Rhode Island. (The existing rule extends for five and one-half months, and has been further extended on occasion to a full six months! That is far more than a “winter” termination moratorium period.)

The original purpose of the winter utility service termination moratorium was to try to ensure that those who had experienced recent financial reverses were able to continue to have heat in their residence throughout the coldest winter months. In December 1977, following an emergency rule-making proceeding, the Commission issued an order providing:

That from 12:01 a.m. on the day following the effective date [December 5, 1977] of this Order to 11:59 p.m. on March 31, 1978, no gas or electric utility subject to these regulations shall terminate service to any residence where such service is the primary source of heat for nonpayment of a delinquent account, **except where the delinquent balance of the account exceeds \$200.00**, and; where such service is not the primary source of heat, except where the delinquent balance exceeds \$75.00. For purposes of this Order, a “delinquent balance” shall be that amount which has been unpaid for at least ten (10) calendar days after rendition of bill;...

In Re The Adoption Of Certain Rules And Regulations, Commission Order number 9439, dated and effective December 5, 1977, in Commission Docket number 1324 (**emphasis** supplied). Thus, this earliest identified utility

termination moratorium was both much shorter (less than four months)⁹ than the new rule now proposed by the Commission (which is still five months), and limited only to customer's whose delinquent account balance at the time beginning of the moratorium was \$200.00 or less. Customers whose balances exceeded \$200.00 as of December 5, 1977, were not eligible for the protections offered by the Commission's new winter utility termination moratorium, presumably because the Commission believed those customers' balances had built up over multiple billing periods, giving the customers adequate time to address their problem; only those whose financial problems were very recent were afforded protection.

Rhode Island, tucked solidly into southeastern New England, and everywhere within reach of the moderating influences of the ocean, probably enjoys on average the mildest temperatures anywhere in the region. The comparative mildness of Rhode Island's winters is not, however, reflected by the proposed duration of its Winter Utility Service Termination Moratorium when measured against other northern tier states in the eastern United States:¹⁰

⁹ This more closely approximates a true "winter" utility termination moratorium period than either the proposed rule or the existing rule. Winter officially begins on December 21 and runs through March 20. Thus, the 1977 Commission's moratorium period actually began about two weeks before winter began, and continued three weeks after winter ended. The current period actually includes over half of Autumn and nearly half of Spring, too.

¹⁰ See APPENDIX A, "State Disconnect Policies – LIHEAP Clearinghouse," published by the Administration for Children & Families, U.S. Department of Health and Human Services, <http://www.liheap.ncat.org/Disconnect/disconnect.htm>. This publication is useful for doing a quick comparison between the various states, but it does not always reflect the current state of the law in each state. For example, this publication shows the current Rhode Island protection dates as running from October 1 through April 30 (i.e., the protection ends May 1), while this table shows it as running from October 1 through April 15 (i.e. the protection ends on April 16); this is because Appendix A apparently was prepared following a Commission-approved

<p style="text-align: center;">COMPARISON OF DATES OF WINTER UTILITY SERVICE TERMINATION MORATORIUM NEW ENGLAND/NORTHERN MID-ATLANTIC/NORTHERN MIDWEST</p>			
TABLE 1			
STATE	BEGINS	ENDS	LENGTH (DAYS)
New York ¹¹	December 19	January 2	15
Massachusetts	November 15	March 15	120
Pennsylvania	December 1	March 31	120

extension of the protection period, while our table uses the actual dates found in the current Commission instruction. It is also worth noting that many of the Winter Utility Service Termination Moratoria in other states are restricted by more than just the calendar date, including (for example) restrictions based on size of balance, requirements that the customer be able to demonstrate he or she has at least been paying for current usage, temperature forecasts, financial hardship of the customer and/or customer health issues. In some states, otherwise protected residential customers can continue to have their utility services terminated even during the winter under some circumstances. (**Massachusetts** – to benefit from seasonal moratorium, customer must be unable to pay an overdue charge due to financial hardship; **Pennsylvania** – to benefit from seasonal moratorium, customer must be at or below 250% of the Federal poverty level, 150% for customers of one specific municipal gas utility; **Vermont** – no service termination if temperature is less than 10° F, or less than 32° F for households with elderly age 62 or older; **New Hampshire** – PUC approval needed to shut-off elderly 65 or older, shut-off not allowed unless arrears greater than \$125.00 for gas non-heating, \$225.00 for electric non-heating and more than \$450.00 for gas, electric and steam heating, financial hardship customers must pay 10% of total due each month with balance to be paid off over next 6 months following moratorium; **Michigan** – moratorium protection only for elderly 65 years or older, recipients of Medicaid, Food Stamps or Dept. of Human Services cash assistance, full-time active military personnel or persons needing critical care or having a certified medical emergency, and households with income less than 150% of federal poverty guidelines if they are enrolled in a payment plan; **Maine** – to benefit from seasonal moratorium, customer must earn less than 150% of federal poverty guidelines and agree to a special payment arrangement that allows customer to pay less than amount of current bill during the winter months with PUC approval; **Ohio** – customers may maintain service by paying \$175.00 and enter into extended payment plan on remaining balance, but may only do this once during moratorium; **Wisconsin** – no disconnect during extreme weather unless last resort after all other legal means of collection have been attempted and only if income is greater than 250% of federal poverty guidelines, health and safety would not be endangered due to presence of elderly, small children, or mentally disabled, and only when utility has approved winter disconnection plan on file – customer must agree to payment plan; **Connecticut** – low-income “hardship” policy allowing gas heat and electric service to be turned on *except* if gas heat was provided previous winter based on “hardship” and service was subsequently turned off for nonpayment customer must pay something to get reinstated, with *no disconnection authorized if customer agrees and adheres to payment plan.*)

¹¹ **New York** has only a two-week suspension of terminations over the Christmas and New Year holiday season. The actual dates will vary slightly from year to year, and from utility to utility (depending on the utility’s terms and conditions of service). In addition, between November 1 and April 15, New York requires that all customers must be notified 72 hours before disconnection to ascertain if the health and safety of a resident will be compromised; if there is such an issue, the utility apparently must involve social services for assistance in resolving matters before it may terminate. Generally speaking, however, **service may be terminated for non-payment**, after appropriate notice requirements are met, **year round** (except for the two weeks around Christmas and New Year) **for all customers**. Appendix A; see also <http://www3.dps.ny.gov/W/PSCWeb.nsf/ArticlesByTitle/D580F8B12CDAC9F985257687006F395E?OpenDocument> (New York).

Rhode Island (Division Proposal)	November 15	March 15	120
New Hampshire	November 15	March 31	136
Vermont	November 1	March 31	150
Michigan	November 1	March 31	150
Rhode Island (Proposed Rule)	November 1	March 31	150
Maine	November 15	April 15	151
Ohio	November 1	April 15	165
Wisconsin	November 1	April 15	165
Rhode Island (Current)	November 1	April 15	165
Connecticut	November 1	May 1	181

The Division does not believe we can justify having a Winter Utility Service Termination Moratorium comparable to that of the far colder states of Maine, Vermont and Michigan, nor one longer than the similarly frigid states of New York (including Buffalo and the snow-bound reaches of upstate New York), New Hampshire and Pennsylvania,. In our view, our climate is most similar to that of southeastern Massachusetts, and calls for a moratorium period similar to the one adopted by Massachusetts.

The Division's concerns with respect to lengthy Winter Utility Service Termination Moratoriums were beautifully expressed by this Commission some ten years ago, when it stated:

The Commission has had a policy, at least since 1985, of imposing a moratorium on terminations during the winter months. However, what has become abundantly clear to the Commission, especially after hearing the testimony presented in Docket No. 3400, is that it appears the moratorium causes more harm than good. An extended moratorium harms those who do not, for whatever reason pay their bills during the November 1 to April 15 period each year. The longer the moratorium, the larger the balances that must be addressed grow. Each year, individuals scrape up just enough money to have their service restored with no ability to meet the requirements on a going-forward basis. This pattern sets consumers up for failure. On another side of the

issue, there are those ratepayers who are ineligible for assistance, but who are just “getting by” in paying their utility bills. As the large uncollectible balances are left unpaid, these struggling ratepayers experience increases to their rates to cover the debts of others. When the Commission approves a rate increase for that reason, the Commission is putting an even greater population at risk. Finally, there is the utility company which must pay the bills it incurs. The Commission uses Pascoag Utility District as a prime example. In its most recent reconciliation case, Docket No. 2861, Pascoag was in financial difficulty, in part, because of the lack of customer payments during the moratorium. Reviewing their collections, it is clear that many ratepayers use the moratorium as a sort of interest free loan. This is inappropriate and has the potential to cause a ratepayer to suddenly be in a cycle of not being able to pay what he or she owes.^[fn. 26] Therefore, going forward, ***the Commission must consider narrowing the moratorium and revising the Termination Rules to create a better balance among all ratepayers and between the ratepayers and the utility.***

[fn. 26] Although the Commission allows for terminations during the winter moratorium if a non-protected class customer’s account goes above a certain level, depending on whether the utility provides heat, it is the Commission’s experience that the utilities do not exercise this discretion. ***That is also inappropriate and will be addressed in any revisions to the Termination Rules.***

In Re Regulations Governing Termination Of Residential Electric, Gas and Water Utility Service, Commission Report and Order number 17617 dated November 21, 2003, and effective October 30, 2003, issued in Commission Docket number 1725 (***emphasis*** supplied.)

We believe the Commission cut right to the heart of the matter in its 2003 findings. Indeed, we believe the problem has continued to grow since then, with many consumers clearly using the multi-step processes established in the current *Termination Rules* to delay the termination of their utility service from moratorium to moratorium without ever making a single out-of-pocket

payment on their utility bills (in many cases, the only payments made each year are LIHEAP or other grants). Where in 2003 the Division Informal Review Officer and Formal Hearing Officers rarely saw past-due balances greater than a couple of thousand dollars, they now routinely see cases where the past-due balances are in excess of \$7,000.00, and balances of around \$20,000.00 for a single utility are not unheard of.¹² Many of the consumers we are seeing now have been able to go for multiple years without paying anything toward their past-due balances out of pocket (i.e., if there are payments, they are often LIHEAP grants or similar grants from other sources). The relatively short period of time for the utilities to start and complete their collection activities between moratorium periods has certainly been a significant contributing factor to the magnitude of the problem we have been seeing.

Assuming the Commission concludes it, and not the Division, has the statutory authority to address the Winter Utility Service Termination Moratorium Period, the Division still believes the Commission should modify its proposed rule 4.O.E along lines similar to that proposed by the Division to at least require that customers pay for their current usage during the Winter

¹² For example, one hearing in October 2013 involved a single residential electric service customer with a past-due balance of over \$19,000.00, resulting from an average monthly bill for current consumption of over \$400.00. The customer account had been shifted between four different family members over the past several years to forestall termination of service for non-payment; there had been no payments for about four years in spite of multiple termination processes. Indeed, the current account holder took over for his son only after his son filed a complaint with the Division requesting an informal review as a means of forestalling another termination; the administrative process was then completed with the father standing in as the technical complainant. Realistically speaking, that family may now have no alternative to filing for bankruptcy as its only way out of the financial hole it now finds itself in, a hole that our current procedures helped them dig. This is not an isolated case (though the amount owed is near the extreme end of what we see). Our current system encourages this type of conduct. Surely it is not in the public interest to have a system which encourages consumers to dig a financial hole from which they can escape only via bankruptcy.

Utility Service Termination Moratorium Period to prevent their arrearages from growing even higher. In the Division's experience, most of the customer coming in for Informal Reviews or formal hearings under the current rules are paying absolutely nothing toward their utility bills after November 1 (other than, possibly, a LIHEAP or other grant from third parties). As a result, once the moratorium ends, their balance has simply mushroomed, greatly reducing the chance that they will be able to comply with any new payment plan they might be offered.

A customer that cannot pay 25% down on a balance of \$1,000.00 in October (and most balances we have been seeing are much larger than that), nor monthly payments of \$112.50 [\$62.50 (toward arrears each month for twelve months) plus \$50.00 (as an example; not an unusual average monthly electric bill when electricity is not being used for heat) for average current monthly usage] is probably not going to be able to pay 25% down on a balance of \$1,300.00 six months later. Each year that goes by without the customer paying any part of their balance down simply puts them into a deeper and deeper financial hole from which they are increasingly unlikely to escape.

If customers are simply able to get by without ever making payments, then they will not make any payments (which is exactly what we have been seeing). If customers do not make payments, then the bad debt allowance of the utilities will continue to grow (if the utilities cannot be reimbursed for the commodity cost through the bad debt allowance, then they will no longer be able to buy those commodities for delivery to any of their customers). If the

bad debt allowance is allowed to continue to grow unchecked, then there will be continuing pressure to increase the rates paid by those utility customers who pay their bills. (The total bad debt allowance for National Grid for calendar years 2008 through 2012, most of it attributable to residential accounts that are in arrears, **exceeded \$130,000,000.00**. This can hardly be viewed as a trivial amount, and is certainly enough to exert an upward pressure on the rates paid by all customers.) If the utility rates continue to climb unchecked, more and more customers (residential, commercial and industrial, alike) will be unable to pay their utility bills – and will simply stop trying (or will either be forced out of business, or will simply leave the state). And then the cycle repeats itself, until no one can afford their utilities.

9. Proposed Rule 4.0.B reads as follows: “No Electric or Gas Utility shall terminate service to any household in which all adult residents are sixty-five (65) years of age or older and qualify under the definition of Financial Hardship for failure to pay an outstanding indebtedness for service without the Electric Utility or Gas Utility first complying with reasonable methods of debt collection as defined by the Division.”

Change to read: “No Electric or Gas Utility may terminate service to any household for failure to pay an outstanding indebtedness for service, without first complying with reasonable methods of debt collection as defined by the Division, in which both of the following criteria are met:

1. All adult residents are sixty-five (65) years of age or older; and,
2. The household falls within the definition of “Financial Hardship” as set out in Rule 3.0.__, above.”

The proposed change is intended to emphasize that there are two criteria, both of which must be satisfied before a customer/household qualifies for this type of limited protected status.

10. **Proposed Rule 4.0.C reads as follows:** “No Electric or Gas Utility shall terminate service to any household in which any resident is disabled and qualifies under the definition of Financial Hardship for failure to pay an outstanding indebtedness for service without the Electric Utility or Gas Utility first complying with reasonable methods of debt collection as defined by the Division.”

Change to read: “No Electric or Gas Utility may terminate service to any household for failure to pay an outstanding indebtedness for service, without first complying with reasonable methods of debt collection as defined by the Division, in which both of the following criteria are met:

1. Any resident is disabled, as defined by Rule 3.0.____, above; and,
2. The household falls within the definition of “Financial Hardship” as set out in Rule 3.0.____, above.”

The proposed change is intended to emphasize that there are two criteria, both of which must be satisfied before a customer/household qualifies for this type of limited protected status. It also makes it clear that the entire household, not simply a single individual, must qualify as coming within the definition of “Financial Hardship,” in order to come within the additional protections offered by this rule. Without this qualification, even a very wealthy household could seek enhanced protections from utility termination simply because a single resident of the house is disabled and unable to work.

The Division has already seen at least one case in which, for example, the customer obtained a “protected status” based on the total number of people in the household, while concealing the total financial resources of the household. (I.e., the CAP Agency questionnaire asked for the total number of members in the household, and the total income of the household, but while the customer accurately reported everyone who lived in the home, the customer failed to reveal that the household enjoyed four or five sources of income in

addition to that of the customer; total household income was under-reported by more than \$100,000.00, allowing the customer to obtain LIHEAP certification as well as transition to the low income utility rate from the standard customer rate.)¹³ We do not believe these rules should allow this type of practice; protection should be based primarily on ability to pay.

- 11. Proposed Rule 4.0.E reads as follows:** “No Electric or Gas Utility may terminate service to any household without providing a Termination Notice.”

Change to read: “No Electric or Gas Utility may terminate service to any household without providing a Termination Notice in accordance with reasonable methods of debt collection as defined by the Division.”

“Reasonable methods of debt collection” must, invariably, require appropriate notice prior to moving to terminate a customer’s utility service. Since it is the Division’s responsibility to promulgate such methods, this rule should acknowledge that the Termination Notice in question will be part of those Division-prescribed methods.

- 12. Proposed Rule 5.0.A reads as follows:** “National Grid shall not shut off services to a household which qualifies under the definition of Financial Hardship if the customer’s outstanding bill is three hundred dollars (\$300) or less and not more than two (2) months in arrears. Service may not be terminated unless two (2) notices of termination have been sent.”

Change to read: “No Electric or Gas Utility other than the Block Island Power Company or the Pascoag Utility District may terminate services to a household which qualifies under the definition of Financial Hardship as set out in Rule 3.0.____, above, if the customer’s outstanding bill is three hundred dollars (\$300) or less and not more than two (2) months in arrears. Service to such customers may not be terminated unless two (2) notices of termination have been sent in compliance with reasonable methods of debt

¹³ See, for example, *In Re National Grid-Electric vs. Sharon Graves*, Division Report and Order number 20484 dated and effective October 5, 2011, in Division Docket number D-11-31.

collection as defined by the Division in furtherance of its own statutory authority and these rules.”

This rule is based on R.I.G.L. § 39-1.1-1(b) and presumably applies to all electric and gas utilities other than Pascoag Utility District and Block Island Power Company – which may or may not be limited to National Grid now and in the future. Given that, we believe it would be better if the Commission simply restates the statute more or less as it is written.

“Reasonable methods of debt collection” must, invariably, require appropriate notice prior to moving to terminate a customer’s utility service. Since it is the Division’s responsibility to promulgate such methods, this rule should acknowledge that the Termination Notice in question will be part of those Division-prescribed methods.

13. Proposed Rule 5.0.B.1 reads as follows: “A licensed physician's certification of serious illness shall be sufficient if initially made by telephone. In such event the public utility or the Division, whichever received initial certification, shall inform the certifying physician that he or she must forward to the public utility within seven (7) days a written certification indicating the name and address of the seriously ill person, the nature of the illness, and its likely duration. The public utility shall acknowledge receipt of such written certification and shall notify the customer in writing of the date upon which service will be terminated unless the customer (a) has arranged for payment of this bill with the public utility; (b) requests a hearing from the Division; (c) enrolls in a residential payment plan or other payment arrangement. The termination date shall be not less than three (3) weeks from receipt by the public utility of the written certification. If the duration of the illness exceeds three (3) weeks from the certification to the public utility, the customer may request a review from the Division to determine whether the initial exemption shall continue, for how long, and under what circumstances.”

Change to read: “A licensed physician's certification of serious illness shall be sufficient if initially made by telephone.”

1. In such event the public utility or the Division, whichever received initial certification, shall inform the certifying physician that he or she must forward to the public utility, within seven (7) days of the initial telephone call, a written certification indicating:

- a. The name of the seriously ill person;
- b. The address of the seriously ill person;
- c. The nature of the illness; and,
- d. The likely duration of the illness.

If the public utility does not receive the written physician's certification within seven (7) days of the initial telephone call from the physician, the public utility shall proceed on the assumption that the serious illness no longer exists.

2. The public utility shall acknowledge in writing to the physician and to the customer within three (3) business days receipt of such written licensed physician's certification.

3. The public utility shall notify the customer in writing within three (3) days of its receipt of the physician's certification of the date upon which service will be terminated unless the customer:

- a. Has arranged for payment of this bill with the public utility;
- b. Requests from the Division a review of the proposed termination; and,
- c. Enrolls in a residential payment plan or other payment arrangement.

4. The termination date established by the public utility shall be not less than three (3) weeks from receipt by the public utility of the written certification from the physician. If the duration of the illness exceeds three (3) weeks from the certification to the public utility, the customer may request a review from the Division to determine whether the initial exemption shall continue for longer than the initial three (3) weeks, for how long, and under what circumstances."

With respect to proposed *Rule 5.0.B.1*, the Division believes it will be easier to read and understand if it is organized in subsections. In addition, the Division does not agree that the Commission has the authority to require the Division to offer an automatic formal hearing on matters such as this.

It is the Division's practice to handle consumer complaints and disputes in the first instance informally, through contact with the Division's Consumer Section. Only if there is a genuine dispute of a material fact that cannot be adequately resolved by our Consumer Agents or their Supervisor do we normally refer the matter to a formal hearing. In matters such as this, there is either a proper Physician's Certification or there isn't. A serious illness is either acute (i.e., transitory, in which case it is expected to resolve itself over time) or it is chronic (and not expected to resolve at all). There may be an issue of fact as to the reasonable expected duration of the former which might justify delaying a termination, but there is never an issue of fact as to the latter (that is, a chronic serious illness or disability does not entitle one to utility services indefinitely without paying for those services). Again, the Division will not agree to be bound by the Commission to conduct formal hearings where there are no material facts in dispute that would require resolution through a formal hearing.

- 14. Proposed Rule 5.0.C.1 reads as follows:** "No Electric Utility or Gas Utility shall terminate gas or electric service in any residence in which there is domiciled a person under the age of two (2) years and the customer's service has not been previously shut off for nonpayment before the birth of the child; provided, that the customer cannot afford to pay any overdue bill because of Financial Hardship."

Change to read: "a. No Electric Utility or Gas Utility may terminate gas or electric service in any residence in which all three of the following criteria are satisfied:

- i. There is domiciled a person under the age of two (2) years;
- ii. The customer's service has not been previously shut off for nonpayment before the birth of the child; and,

- iii. The customer cannot afford to pay any overdue bill because of Financial Hardship as set out in Rule 3.0.____, above.”
- b. For the purposes of this rule, “domicile” and “residence” are considered to be synonymous. The critical point is that the infant in question is living permanently at the residence of the customer claiming this protection, and that the customer can establish through appropriate official documentation both that there is an infant, and that the infant is living in the customer’s residence on a permanent, as opposed to transient, basis.
- c. The same protection as described in subparagraphs 5.0.C.1.a and 5.0.C.1.b, above, shall be afforded to customers whose Electric Utility or Gas Utility service is subject to termination for non-payment, but whose service has not yet been terminated, and who can establish through the documentation described above that an infant under the age of two (2) years is currently residing permanently with that customer (normally, either some indication that the mother was residing with the customer at the time she gave birth, or that legal guardianship of the infant has been granted to someone residing with the customer, should be sufficient).

15. Proposed Rule 5.0.C.2 reads as follows: “For the purpose of determining whether there is a residence in which there is a person under the age of two (2) years domiciled, the gas or electric company shall require certification from the customer in the form of a birth certificate or other verifiable (i.e. hospital or physician) documentation within seven (7) days of claiming the protection. Such documentation may be mailed to the Electric Utility or Gas Utility or sent to the company by facsimile or electronic mail to a number or email address which shall be provided to the customer by the Electric Utility, Gas Utility or the Division.”

Change to read: “For the purpose of determining whether there is a residence in which there is domiciled a person under the age of two (2) years, the Electric Utility or Gas Utility shall:

- a. Require certification from the customer in the form of a birth certificate or other verifiable (i.e. hospital or physician) documentation within seven (7) days of first claiming the protection;
- b. The documentation must also show that the infant’s claimed residence upon the date of birth was at the customer’s residence (normally, either some indication that the mother was residing with the customer at the time she gave birth, or that legal guardianship of the infant has been granted to someone residing with the customer, should be sufficient); and,
- c. Such documentation may be mailed to the Electric Utility or Gas Utility or sent to the Electric Utility or Gas Utility by facsimile or

electronic mail to a number or email address which shall be provided to the customer by the Electric Utility, Gas Utility or the Division.”

- 16. Proposed Rule 5.0.C.3 reads as follows:** “If initial notification is made by telephone to the Division, the Division shall inform the Electric Utility or Gas Utility of the customer’s name and information. The Division shall also inform the customer that he or she must forward to the electric or gas company within seven (7) days a birth certificate or other verifiable (i.e. hospital or physician) documentation.”

Change by adding the following: “If the public utility does not receive a birth certificate or other verifiable (i.e. hospital or physician) documentation within seven (7) days of the initial contact with the Division or public utility claiming a right to the protection afforded the customer by this rule, the public utility shall proceed on the assumption that the customer cannot establish that the customer is entitled to take advantage of the infant protection provisions of this rule.”

- 17. Proposed Rule 5.0.C.4 reads as follows:** “Upon receipt of initial notification by the Division or from the customer, the Electric Utility or Gas Utility shall review the customer’s account to verify that the customer’s service has not been previously shut off for nonpayment before the birth of the child. In the event the electric or gas company deems a customer ineligible for the protection, the Electric Utility or Gas Utility shall immediately notify the customer in writing of the determination and advise the customer of his or her right to a review of the determination to the Division.”

Change to read: “Upon receipt of initial notification by the Division or from the customer, the Electric Utility or Gas Utility shall review the customer’s account to verify that the customer’s service has not been previously shut off for nonpayment before the birth of the child. In the event the Electric Utility or Gas Utility deems a customer ineligible for the protection, the Electric Utility or Gas Utility shall immediately notify the customer in writing of the determination and advise the customer of his or her right to request a review of the Electric Utility or Gas Utility determination by the Division.”

- 18. Proposed Rule 5.0.C.6 reads as follows:** “In the event a customer’s service was terminated after the birth of a child, but before the electric or gas company was notified, the customer may have his or her service restored upon providing the Electric Utility or Gas Utility with a birth certificate or other verifiable (i.e. hospital or physician) certification.”

Change by adding the following: "...showing that the infant was domiciled at the customer's residence at the time the utility service was terminated. Such certification must be provided to the Electric Utility or Gas Utility within seven (7) days of the customer first contacting the Electric Utility or Gas Utility to claim this protection, and the certification must show that the infant's claimed residence upon the date of birth was at the customer's residence (normally, either some indication that the mother was residing with the customer at the time she gave birth, or that legal guardianship of the infant has been granted to someone residing with the customer, should be sufficient)."

All proposed changes to this rule shall be discussed as one.

Where an infant is "domiciled" is not as open and shut as one might think at first blush. "Domicile" may be defined as the "place at which a person is physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere." BLACK'S LAW DICTIONARY 501 (7th ed. 1999). "Domicile of choice" is the "domicile that a person chooses after reaching majority or being emancipated" while "domicile of origin" is defined as the "domicile of a person at birth, **derived from the custodial parent** or imposed by law." *Id.* (**Emphasis** supplied.) Under common law in Rhode Island, the "domicile of a minor child during his father's lifetime is that of the father. Upon the father's death, the domicile of the infant ordinarily follows that of the mother, if the mother survives the father." *Green v. Willis*, 47 R.I. 375, 133 A. 651 (1926) (case involved dispute as to county of domicile of a minor child in an adoption proceeding where domicile of child determined jurisdiction – *compiler's headnotes suggested that the statement of the primacy*

of father's domicile applied only in the case of a legitimate unemancipated minor, but the decision itself, as quoted, does not say that).

Arguably, then, in Rhode Island, in the absence of a court order to the contrary, if a child's father is known and alive, only the father (or the customer with whom the father lived) would be able to take advantage of the infant protection statute, RIGL § 39-1.1-2.1. Most jurisdictions now, though, assign minor children the domicile of the parent with whom the child lives. 25 Am.Jur. 2d Domicil § 37. This is particularly true with children born out of wedlock, where most courts now assign such children the domicile of the mother, and treat the place of birth, and the domicile of the father, as being immaterial. 25 Am.Jur. 2d Domicil § 41; *see also Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989) (Supreme Court held that, at least for Federal purposes, when "domicile" is a key jurisdictional provision in a Federal law, the states are required to apply a single Federal standard for determining domicile of children born out of wedlock, and that the child's domicile will be that of the mother – which the Court noted is the generally accepted doctrine in the U.S.), *Rosario v. Immigration and Naturalization Service*, 962 F.2d 220 (2d Cir. 1992) (minor alien's "domicile" in U.S. could be established through parent if minor had significant relationship with parent during time in question under statute permitting relief from deportation of alien who is lawfully admitted for permanent residence and has lawful unrelinquished domicile of seven consecutive years).

Given the cultural changes that have occurred with respect to children born out of wedlock since the *Green* decision was issued, the better interpretation now is probably to assign children born out of wedlock the same domicile as their mothers, barring some judicial determination to the contrary with respect to the children in question.

Of concern to the Division is the potential for utility customers to claim the benefits of the infant protection statute simply by submitting a birth certificate to the utility and claiming the infant lived with the customer even though the infant lived somewhere else. This potential for abuse is greatest in the context of extended families. For example, it is quite common for working parents to ask their own parents to watch their children while they are at work (and there is certainly nothing wrong with doing so). Under the current practice, though, if such a grandparent then sends in a copy of that grandchild's birth certificate and claims the grandchild is domiciled with the grandparent(s) (even though the child is only being babysat during the day time), there is a very good chance that the grandparent(s) would be able to take advantage of the infant protection provisions of the law and forestall utility service termination for up to two years. Once an infant protection claim is accepted by the public utility, that customer making that claim will probably be able to continue to enjoy the benefits of a protection to which that customer was never entitled even if the customer no longer has the infant even temporarily – and the ratepayers as a whole end up paying for that customer's utility services as well as their own.

We do not want a customer whose service has been properly terminated for nonpayment to be able to have his or her services reinstated simply by claiming that an infant to whom the customer is somehow connected was residing with that customer as of the termination date. The certification should make it clear that either (a) the infant's parent(s) were residing with the customer at the time of the infant's birth (birth certificates, for example, normally show the address of record at time of birth for both parents, if known; if the customer's address is not claimed as the residence for at least one parent at the time of birth, we can presume that the infant was not residing with the customer at the time the service was first terminated – and therefore there is no basis for now restoring that service – because at the time the infant moved in, the service had already been terminated for nonpayment), or (b) legal guardianship for the infant has been formally transferred from the infant's parents to someone residing with the customer claiming the protections afforded by the statute.

- 19. Proposed Rule 6.0.A reads as follows:** “Enrollment is completed when the customer makes an initial payment of ten percent (10%) of the customer's unpaid balance; and”

Change to read: “Enrollment is completed when the customer makes an initial payment of ten percent (10%) of the customer's unpaid balance. For purposes of this subsection:

1. The only acceptable evidence that the customer has entered into an Arrearage Forgiveness Program Payment Plan under this *Rule* is actual payment of the initial payment of ten percent (10%) of the customer's unpaid balance.
2. In order to avoid termination of utility service prior to the scheduled shut-off date, the initial payment of ten percent (10%) of the customer's unpaid balance must be made before that date.

3. If the customer fails to make the initial payment of ten percent (10%) of the customer's unpaid balance before the scheduled shut-off date, the customer may avoid termination of the customer's utility service by paying the utilities field representative at the customer's residence prior to actual termination on the shut-off date.
4. If the customer makes the initial payment of ten percent (10%) of the customer's unpaid balance with a personal check or credit card charge, and that payment fails to be honored by the issuing financial institution (i.e., the bank/credit union returns the check for insufficient funds, or the credit card company advises the utility that it will not honor the charge), the customer will be considered in default of the Arrearage Forgiveness Program Payment Plan and utility service termination may be rescheduled; and"

Perhaps the single most contentious issue the Division has seen with respect to Henry Shelton Act Arrearage Forgiveness Program Payment Plans is disagreement over what constitutes entering into such a plan. Customers confronting utility service termination have advised the company that they are agreeing to enter into an arrearage forgiveness plan, been removed from the utility's shut-off schedule, failed to make the required down payment, then made it to the utility termination moratorium before the utility could reschedule a shut-off. When the termination process resumed the following Spring, the customer would again assert that he or she was eligible for a Henry Shelton Act Arrearage Forgiveness Program Payment Plan because they had never actually entered into such a plan before (i.e., they had not actually made a down payment).

The Division does not believe this is what the General Assembly intended, and has long since taken the position that when the customer advises the utility that the customer is electing to participate in a Henry Shelton Act Arrearage Forgiveness Program Payment Plan, and the company

accepts that statement as evidenced by cancelling a pending termination, then the customer has in fact entered into the plan and if the customer fails to carry through on the plan will be considered to be in default. However, the Division believes that the Commission's implementing rule should eliminate the ambiguity by making clear to both the customer and the utility that the customer will be terminated unless the customer actually makes the required down payment before the scheduled shut-off.

Conclusion

Notwithstanding the length of these comments, the Division fully supports the Commission's proposed new *Rules*. We believe our suggested changes will clarify those rules in several important areas, but do not represent a significant departure from the substance of the Commission's original proposal.

The Division looks forward to addressing any questions the Commission may have regarding our suggestions, or about the residential termination process in general as it has been applied under the 2002 *Termination Rules*.

STATE OF RHODE ISLAND,
DIVISION OF PUBLIC UTILITIES AND CARRIERS

Thomas F. Ahern
ADMINISTRATOR

By their attorney,

WILLIAM K. LUEKER
DEPUTY CHIEF OF LEGAL SERVICES

A handwritten signature in blue ink, appearing to read "William K. Lueker", is written over a horizontal line.

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View a table of state seasonal termination protections only.

NOTE: These policies may not apply to all utilities in your state. In general, municipal utilities and rural electric cooperatives are not regulated and the policies do not apply to them. Check with your PUC/PSC contacts and/or websites below to see if the state policy applies to your utility and read the Consumer FAQs or Bill of Rights for more information. If you have a dispute with your utility, you should try and resolve it with the utility first before calling your PUC/PSC.

Alabama

Date-based no
Temperature-based yes
Temperature 32° F or below
Seasonal Policy Ban for special circumstances such as extreme weather or life-threatening situation.
PUC/PSC Contacts Consumer line: 800-392-8050
Complaint form www.psc.state.al.us/Complaints/ComplaintForm.htm

Alaska

Date-based no
Temperature-based no
Seasonal Policy No disconnect for seriously ill, disabled.
Other Delay disconnect for 15 days if household member is seriously ill, age 65 or older, disabled, or dependent on life support system.
Deferred Payments No disconnect if customer is on a payment plan.
PUC/PSC Contacts Consumer line: 907-276-6222 (Anchorage); 800-390-2782
 TTY: 907-276-4533
 Email: rca.mail@alaska.gov
Complaint form <http://rca.alaska.gov/RCAWeb/ForConsumers/SubmitInformalComplaint.aspx>

Arizona

Date-based no
Temperature-based yes
Temperature 32° F and below
Seasonal Policy Temperature based
Other Utilities advised not to terminate residential service when the customer has an inability to pay and where weather will be especially dangerous to health (usually 32° F or below for winter and triple digits for summer) as determined by the Commission. There are also rules prohibiting disconnection of service for certain medical reasons.
PUC/PSC Contacts Consumer line: 602-542-4251 or 800-222-7000 (Phoenix area)
 520-628-6550 or 800-535-0148 (Tucson area)
Consumer FAQ/Bill of Rights www.azcc.gov/divisions/utilities/cons/index.asp
Complaint form www.azcc.gov/Divisions/Utilities/forms/ComplaintForm2012.pdf

Arkansas

Date-based yes

APPENDIX A

Protection Dates	November 1 - March 31 (temperature-based)
Temperature-based	yes
Temperature	32° F and below 95° F and above (elderly and disabled)
Seasonal Policy	Gas and electric service cannot be disconnected if forecast predicts a temperature of 32 or lower during the next 24 hours. No disconnect for elderly or disabled when temperature is >95, or medical emergency. No disconnect if customer agrees to deferred or extended payment agreement. The Public Service Commission has amended the state's cold weather rule to ban winter natural gas disconnections of certain income-eligible households provided they make a minimum payment, about 50 percent of their bill. The amendment is effective December 1 through March 31. If households make the required payment, the remainder of their bill is deferred until April, after which they have seven months to pay off the balance. Qualified customers are those who receive benefits from LIHEAP, Food Stamps, WIC, Medicaid or Transition Employment Assistance. To qualify, customers must notify their natural-gas supplier that they are eligible and provide written proof to the utility within two weeks. If fraud, misuse or failure to make monthly payments occur, the utility can suspend the customer's service until all bills are paid in full.
Other	Utilities must honor a physician's certificate in prescribed form that a customer/permanent resident has a serious medical condition and stating that suspension of service would result in substantial risk of death or grave impairment. Certificate can be given by telephone by doctor, nurse, R.N., or public or private agency providing mental health care services, but must be confirmed within 7 days by a physician's writing.
Deferred Payments	No disconnect if customer agrees and adheres to a payment plan.
PUC/PSC Contacts	Consumer line: 501-682-1718 or 800-482-1164 TTD: 800-682-2698
Consumer FAQ/Bill of Rights	www.apscservices.info/consumer_fa.asp

California

Date-based	no
Temperature-based	no
Other	Customer who provides certification from licensed physician and surgeon that service termination will be lifethreatening and who is unable to pay in normal period shall be permitted to amortize over a period not to exceed 12 months.
Deferred Payments	Customers unable to make payment may be eligible for amortization agreements not to exceed 12 months.
PUC/PSC Contacts	Consumer line: 800-649-7570
Consumer FAQ/Bill of Rights	www.cpuc.ca.gov/PUC/CEC/a_index.htm
Complaint form	https://ia.cpuc.ca.gov/cimsapp/

Colorado

Date-based	no
Temperature-based	no
Temperature	No special seasonal protections
Other	Customer with a medical certificate could postpone disconnection for up to 90 days and only once during a 12 month period. Certification of licensed doctor or health practitioner is required.
PUC/PSC Contacts	Consumer line: 303-894-2070 (Denver) or 800-456-0858
Complaint form	www.dora.state.co.us/pls/real/CCTS_oWEB.complaint_form

Connecticut

Date-based	yes
Protection Dates	November 1 - May 1
Temperature-based	no
Seasonal Policy	Low-income "hardship" policy - customers are entitled to have gas heat and electric service turned on between 11/1 and 5/1, even if they owe the utility company money, <i>except</i> if gas heat service was provided during prior winter based on "hardship" and service was turned off between 4/15 and 10/31, then, to get service turned on, customer must pay the lesser of \$100, minimum payments due under payment agreement, or 20% of debt to gas company when gas was shut off. Customers must apply for "hardship" protection at the utility every fall. Gas and electric utility service must be provided year-round if a lack of service is life-threatening, regardless of debt to the utility.
Other	No disconnect for 15 days for illness certified by a physician, certification can be renewed. No disconnect for households with a baby 24 months old or younger that has discharge papers from a hospital on which the attending physician indicated utility service is a necessity for the health and well being of the baby.

Deferred Payments No disconnect if customer agrees and adheres to payment

PUC/PSC Contacts Consumer line: 800-382-4586 (Connecticut), 860-827-2622 (outside Connecticut)
TTY: 860-827-2837
Email: dpuc.information@po.state.ct.us

Consumer FAQ/Bill of Rights [Rights of Utility Customers](#)

Complaint form www.dpuc.state.ct.us/CAIUI.NSF/RevWebIntake?OpenForm

Delaware

Date-based yes

Protection Dates November 15 - April 15

Temperature-based yes

Temperature 32° F and below
105° F or above

Seasonal Policy Temperature based

Other No disconnect if termination will adversely affect the occupant's health; must be certified by licensed physician or Christian Science practitioner.

PUC/PSC Contacts Consumer line: 302-736-7500 or 800-282-8574

Consumer FAQ/Bill of Rights <http://depdc.delaware.gov/faqs.shtml>

Complaint form http://depdc.delaware.gov/frm_cmplnt.shtml

District of Columbia

Date-based no

Temperature-based yes

Temperature 32° F and below

Seasonal Policy Temperature based

Other Termination may be postponed for up to 21 days (plus one renewal) with a physician's certificate or notice from a public health official stating that termination would be detrimental to the health/safety of a person.

Deferred Payments Customer must enter into a deferred payment plan if termination is postponed.

PUC/PSC Contacts Consumer line: 202-626-5120

Consumer FAQ/Bill of Rights www.dcpdc.org/got.asp#A6

Complaint form www.dcpdc.org/consumerservices/uccmi/forms/util3.shtm

Florida

Date-based no

Temperature-based no

Seasonal Policy No special seasonal protections

PUC/PSC Contacts Consumer line: 850-413-6100
TTY: 800-955-8771

Complaint form www.psc.state.fl.us/consumers/complaints/index.aspx

Georgia

Date-based yes

Protection Dates November 15 - March 15 and summer months

Temperature-based yes

Temperature 32° F and below or 98° and above

Seasonal Policy Total ban between November 15 and March 15 when the forecasted low temperature for a 24 hour period beginning at 8:00 A.M. on the date of the proposed disconnection is below 32 degrees. No disconnect if illness would be aggravated, need statement from doctor. Residential service will not be disconnected if at 8 A.M. on the scheduled disconnection day, a National Weather Service Heat Advisory or Excessive Heat Warning is in effect for the county of the scheduled disconnection.

Other Delay disconnect for 30 days with medical certification. If life support equipment is needed a "load limiter" is installed that allows enough electricity to run the equipment. Cannot disconnect unless a bill is at least 45 days overdue and proper notification has been sent.

Deferred Payments No disconnect during protection dates if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 404-656-4501 or 800-282-5813
Email: gapscc@psc.state.ga.us

Complaint form <http://crs.psc.state.ga.us/Consumer/Contact/utilityIndustry.aspx?type=Inquiry>

Hawaii

Date-based no

Temperature-based no

Seasonal Policy No special protections

PUC/PSC Contacts Consumer line: 808-586-2800
Email: consumeradvocate@dcca.hawaii.gov

Consumer FAQ/Bill of Rights <http://hawaii.gov/dcca/dca/faqs>

Complaint form http://hawaii.gov/dcca/dca/complaint_form

Idaho

Date-based yes

Protection Dates December 1 - February 28

Temperature-based no

Seasonal Policy Disconnect ban for households with children under 18, elderly age 62 or older, or infirm.

Other Delay disconnection for 30 days if detrimental to health of a household member, certified by a health professional. Cannot disconnect if a customer owes less than \$75 or no more than last month's balance on Nov. 1.

Deferred Payments No disconnect (Nov-March) if customers agrees to payment plan.

PUC/PSC Contacts Consumer line: 208-334-0300 or 800-432-0369

Consumer FAQ/Bill of Rights <http://www.puc.idaho.gov/consumer/consumerfaqs.html>

Complaint form <http://www.puc.idaho.gov/forms/casecomment.aspx>

Illinois

Date-based yes

Protection Dates December 1-March 31 and summer months

Temperature-based yes

Temperature 32° F and below or 95° F and above

Seasonal Policy Total ban when <32. Utilities must offer payment plan of 10% down payment and equalized billing over the next 4 to 12 months. In summer months public utilities cannot turn off gas or electricity when it is the sole power source for the cooling if the forecast for the following 24 hours includes temperature at or above 95°F; includes master-meter buildings.

Other LIHEAP beneficiaries with outstanding balances of less than \$3,000 will pay the lesser value of \$250 or 20 percent of their remaining balance to reactivate service. 30 day delay if physician certifies that disconnect would adversely affect the health of a household member. Customer is expected to enter into a payment plan.

Deferred Payments Utility cannot disconnect during protection dates unless it has offered a deferred payment plan and informed the customer of available energy assistance funds.

PUC/PSC Contacts Consumer line: 800-524-0795 or 217-782-2024 (outside Illinois)
TTY: 800-858-9277

Complaint form www.icc.illinois.gov/consumer/complaint/

Indiana

Date-based yes

Protection Dates December 1 - March 15

Temperature-based no

Seasonal Policy Prohibits utilities from disconnecting residential natural gas or electric service for nonpayment from December 1 to March 15 if the customer qualifies and applies for public assistance, whether or not the customer receives the benefit.

Other Postpones disconnection for 20 days if the customer presents a medical statement from a licensed physician which states that disconnection would be a serious and immediate threat to the health or safety of a person in the household.

Deferred Payments Utility shall provide any residential customer whose account is delinquent an opportunity to enter into a reasonable amortization agreement to pay the delinquent account and must provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program.

PUC/PSC Contacts Consumer line: 317-232-2712 or 800-851-4268

Consumer FAQ/Bill of Rights www.in.gov/iurc/2331.htm

Complaint form www.in.gov/iurc/2331.htm

Iowa

Date-based yes

Protection Dates November 1-April 1 (MidAmerican Energy and Alliant Energy extended their moratorium until April 14, 2008)

Temperature-based yes

Temperature 20° F or below

Seasonal Policy No disconnect for all residential customers when <20° F. LIHEAP-certified customers have complete protection from Nov. 1 through March 31 regardless of temperature; utility must offer payment plan after moratorium. Those who notify their gas and electric utility that they are applying for LIHEAP certification through the local CAP agency may receive a 30 day stay from service disconnection during the moratorium.

Other 30 day delay if physician certifies that disconnect would adversely affect the health of a household member.

Deferred Payments Prohibited from disconnect if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 877-565-4450
Email: iubcustomer@iub.state.ia.us

Consumer FAQ/Bill of Rights www.state.ia.us/government/com/util/consumer_information/index.html

Complaint form www.state.ia.us/government/com/util/forms/CustServ/form_Complaints.html

Kansas

Date-based yes

Protection Dates November 1 - March 31

Temperature-based yes

Temperature 35° F or below

Seasonal Policy Ban when <35, to avoid disconnect when temperature is above 35 customers must make payment schedule, meet payments and apply for aid if eligible.

Other Delay disconnection for 20 days if the action would adversely affect the health of a household member. During the delay the customer is expected to agree to a payment plan.

Deferred Payments During the moratoria, customers must enter into negotiated payment plan, pay 1/12 of arrearage, 1/12 of current bill and disconnection, reconnection and deposit if applicable and apply for energy assistance funds.

PUC/PSC Contacts Consumer line: 785-271-3140 (Topeka) or 800-662-0027
Email: public.affairs@kcc.ks.gov

Consumer FAQ/Bill of Rights www.kcc.ks.gov/pi/complaints.htm

Kentucky

Date-based no

Temperature-based no

Seasonal Policy Customers may negotiate a payment plan with the company for reconnection during the months of November through March if they are "income qualified" for certain public assistance programs and if they secure and present an official "Certificate of Need" from the state social services office.

Other Delay disconnect for 30 days with medical certification. Customer must negotiate a payment plan to maintain service after delay.

Deferred Payments Cannot disconnect if payment agreement is in effect.

PUC/PSC Contacts Consumer line: 502-564-3940 or 800-772-4636
TTD: 800-648-6056

Consumer FAQ/Bill of Rights <http://psc.ky.gov/Home/FAQ>

Complaint form <http://psc.ky.gov/Home/FAQ>

Louisiana

Date-based no

Temperature-based no

Other Disconnection delayed for up to 63 days if detrimental to health or safety of household member. Customer must negotiate a payment plan before disconnect date.

PUC/PSC Contacts Consumer line: 225-342-4404 (Baton Rouge) or 800-256-2397
TTY: 800-648-6056

Consumer FAQ/Bill of Rights www.lpsc.org/mainconsumerfaq.aspx

Maine

Date-based yes

Protection Dates November 15-April 15

Temperature-based no

Seasonal Policy Not permitted if eligible customer (150% FPG) agrees to a special payment arrangement that allows the customer to pay less than the amount of each current bill during the winter months. Requires PUC approval.

Other 30 day delay, with renewals up to 90 days, if physician certifies that disconnect would adversely affect the health of a household member. Cannot disconnect if an overdue amount is less than \$50, unless the overdue amount is more than 90 days old or the utility bills four times a year or less.

Deferred Payments Disconnect prohibited if customer agrees to a payment plan.

PUC/PSC Contacts Consumer line: 800-452-4699

Consumer FAQ/Bill of Rights www.maine.gov/mpuc/consumer/faq.shtml

Complaint form www.maine.gov/mpuc/consumer/file_complaint.shtml

Maryland

Date-based yes

Protection Dates November 1 - March 31

Temperature-based yes

Temperature 32° F or below or if the temperature exceeds 95 degrees for 24 of the next 72 hours

Seasonal Policy Utility must provide affidavit to the Commission that disconnect will not endanger the health of any household member.

Other Utility Service Protection Program payment plans for low-income customers (<150% FPG) provide shut-off protection year-round. If a household member has a serious medical condition, certified by a doctor, disconnection is delayed for 30 additional days. Customer is required to enter into a payment plan. Terminations are suspended for 55 days when people apply for federal energy assistance.

PUC/PSC Contacts Consumer line: 410-767-8000 (Baltimore) or 800-492-0474
TTY: 800-201-7165

Consumer FAQ/Bill of Rights http://webapp.psc.state.md.us/Intranet/psc/faq_new.cfm

Complaint form http://webapp.psc.state.md.us/Intranet/info/complaintfront_new.cfm

Massachusetts

Date-based yes

Protection Dates November 15-March 15

Temperature-based no

Seasonal Policy Disconnect not permitted for any customer who cannot pay an overdue charge because of financial hardship. After November 1, a LIHEAP customer may get service reconnected with a minimum payment of \$255.

Other Utilities are prohibited from terminating service to low-income households where occupants present certification that a household member is seriously ill or is an infant under 12 months of age. Utilities need written approval to shut off services where all household residents are 65 years or older. If the elderly household is low-income and includes a minor, the protection against termination will apply.

PUC/PSC Contacts Consumer line: 617-737-2836 or 877-886-5066
Email: DPUCConsumer.Complaints@state.ma.us

Consumer FAQ/Bill of Rights www.mass.gov/

Complaint form www.mass.gov/

Michigan

Date-based	yes
Protection Dates	November 1-March 31
Temperature-based	no
Seasonal Policy	Winter Protection Plan for elderly 65 years or older, recipients of Medicaid, Food Stamps or Department of Human Services cash assistance, full time active military personnel or persons needing critical care or having a certified medical emergency. Households with income less than 150% of federal poverty guidelines must be enrolled in a payment plan.
Other	<p>Disconnection delay of 21 days with medical certificate if health of household member would be adversely affected. Certification may be renewed another 42 days. Due date for utility bills extended to 22 days. Limit on deposits.</p> <p>Year-round protection from shut-off is available to all residential customers regardless of income with an initial down payment of 10 percent of a customer's total bill and a monthly budget plan.</p> <p>Customers called to full-time active military service during a time of declared national or state emergency or war, may apply for shut-off protection for up to 90 days and may request extensions of this protection by reapplying.</p>
Deferred Payments	Low income customers must make monthly payments of at least 7% of their estimated annual bill, along with a portion of any past-due amount, November through March to avoid shut-off. Eligible senior citizens participating in Winter Protection are not required to make specific monthly payments between November 1 and March 31.
PUC/PSC Contacts	Consumer line: 800-292-9555
Consumer FAQ/Bill of Rights	www.michigan.gov/documents/mpsc/FAQall011408_221482_7.pdf (gas) www.michigan.gov/documents/mpsc/mpscelecfac113007_216992_7.pdf (electric)
Complaint form	www.michigan.gov/mpsc/0,4639,7-159-16368_16415---,00.html

Minnesota

Date-based	yes
Protection Dates	October 15-April 15
Temperature-based	yes - summer disconnect protection
Temperature	Utilities may not disconnect residential electricity service when an excessive heat watch, heat advisory, or excessive heat warning has been issued by the National Weather Service
Seasonal Policy	Disconnect ban if customer declares inability to pay and income is <50% state median income and agrees to payment plan or if eligible customer pays 10% of income or the full amount of current bill (whichever is less) or if customer agrees and adheres to payment plan. Summer disconnect protection - a utility may not effect an involuntary disconnection of residential services in affected counties when an excessive heat watch, heat advisory, or excessive heat warning issued by the National Weather Service is in effect.
Other	<p>Disconnect ban if health of household member would be adversely affected, need medical certificate. Municipals, electric co-ops and public utilities cannot disconnect utility service to a household where a member of the household has been called into active duty if</p> <p>(1) the household income is below state median or is getting energy assistance and enters into a payment agreement where the customer pays 10% of monthly income toward the bill and remains "reasonably" current; or</p> <p>(2) the household income is above state median income and enters into a payment agreement "establishing a reasonable payment schedule that considers the financial resources of the household and the residential customer remains reasonably current w/ payments under the payment schedule."</p>
PUC/PSC Contacts	Consumer line: 651-296-0406 or 800-657-3782 TTY: 800-657-3782 Email: consumer.puc@state.mn.us
Consumer FAQ/Bill of Rights	www.puc.state.mn.us/PUC/consumers/shut-off-protection/index.html
Complaint form	www.puc.state.mn.us/portal/groups/public/documents/pdf_files/011566.pdf

Mississippi

Date-based	yes
Protection Dates	December 1-March 31
Temperature-based	no
Seasonal Policy	Prohibited for customers who can prove extreme financial difficulty or medical emergency and agree to payment plan.
Other	If a customer demonstrates a medical emergency from December through March, the utility shall not terminate service without offering a levelized plan. A customer who agrees to a levelized billing plan will not be disconnected after April 1st.
PUC/PSC Contacts	Consumer line: 800-356-6428 (northern district); northern.district@psc.state.ms.us 800-356-6430 (central district); central.district@psc.state.ms.us

800-356-6429 (southern district); southern.district@psc.state.ms.us
800-637-7722 (Nettleton)

Complaint form www.psc.state.ms.us/

Missouri

Date-based yes

Protection Dates November 1-March 31

Temperature-based yes

Temperature 32° F or below

Seasonal Policy Prohibits the disconnection of heat-related service when the temperature is predicted to drop below 32 degrees during the following 24 hour period. A customer can have service restored by making an initial payment of 50% of his/her outstanding balance or \$500, whichever is less, with the deferred balance to be paid in a Cold Weather Rule payment agreement plan. Prohibits the disconnection of registered elderly and disabled customers who meet certain income guidelines who make a minimum payment.

Other Disconnect shall be postponed for 21 days due to the medical condition of an occupant .Allows customers to extend payment of pre-existing arrears beyond 12 months.

PUC/PSC Contacts Consumer line: 800-393-4211
TTY: 866-735-2460
Email: pscinfo@psc.mo.gov

Consumer FAQ/Bill of Rights www.psc.mo.gov/consumer-information/How_To_File_A_Complaint.pdf

Complaint form www.efis.psc.mo.gov/mpsc/complaintform.asp

Montana

Date-based yes

Protection Dates November 1-April 1

Temperature-based yes

Temperature Cannot disconnect any day when the temperature at 8 a.m. is below 32° F or if freezing temperatures are forecast for the next 24 hours for customers receiving public assistance or if household member is age 62 or older or disabled.

Seasonal Policy Prohibited for customers receiving public assistance or if household member is age 62 or older or disabled. PSC approval needed for shut-off.

Other Disconnection is delayed if detrimental to existing medical condition, written certification to utility can be renewed every 30 days as needed.

PUC/PSC Contacts Consumer line: 800-646-615

Complaint form www.psc.mt.gov/Consumers/complaints

Nebraska

Date-based yes

Protection Dates November 1-March 31

Temperature-based no

Seasonal Policy No disconnect for low-income natural gas customers with proof of eligibility for energy assistance.

Other To have service restored between November 1 and March 31, a ratepayer must make payment of one-fourth of the total arrearage plus the most recent bill and enter a payment plan with the remaining arrearage paid in installments over no less than three months or as agreed between the ratepayer and the utility. If a ratepayer defaults on the payment plan, the utility may disconnect service after providing the requisite notice. Termination would be postponed 30 days if adverse effect on a resident's illness or disability; certification by licensed physician required.

PUC/PSC Contacts Consumer line: 800-526-0017

Complaint form http://psc.nebraska.gov/admin/admin_forms/Complaint_Form.htm

Nevada

Date-based no

Temperature-based yes

Temperature 15° F or below and 105° F or above

Other Disconnection is delayed for 30 days, with one renewal, if medical emergency. Customer must pay bill in installments within the next 90 days. Elderly and handicapped must have 48 hours notice.

Deferred Payments Disconnection is delayed if customers agrees to pay bill in installments within the next 90 days.

PUC/PSC Contacts Consumer line: 800-992-0900 Ext. 4-6101; 702-486-2600 (Vegas); 775-684-6100 (Reno)

Consumer FAQ/Bill of Rights http://puc.nv.gov/FAQ/Termination_of_Service/

Complaint form http://puc.nv.gov/FAQ/Resolving_Disputes/

New Hampshire

Date-based yes

Protection Dates November 15-March 31

Temperature-based no

Seasonal Policy PUC approval is needed to shut-off elderly 65 or older. Disconnect is not allowed unless arrears are more than \$125 for gas non-heating, \$225 for electric non-heating and more than \$450 for gas, electric and steam heating. During winter period, financial hardship customers can restore service with 10% down payment and an arrangement of 10% of the total due each month. Financial hardship customers can also maintain service during winter period with an arrangement of 10% of total due each month. Must allow customers to pay balance over next 6 months after winter moratorium.

Other Disconnection is delayed 60 days with certification of medical emergency, may be renewed every 60 days as necessary. Commission approval is required for disconnection to medical emergency customers.

Deferred Payments No disconnection if customer agrees to and adheres to payment plan.

PUC/PSC Contacts Consumer line: 603-271-1172 or 800-852-3793
Email: oca@oca.nh.gov

Complaint form www.puc.nh.gov/ConsumerAffairsForms/complaintfrm.aspx

New Jersey

Date-based yes

Protection Dates November 15-March 15

Temperature-based yes (summer)

Temperature 95° F and above

Seasonal Policy Ban on disconnection for customers receiving Lifeline, LIHEAP, TANF, SSI, PAAD or GA or households unable to pay overdue amounts because of unemployment, medical expenses, or recent death of spouse. Customers eligible for the Winter Termination Protection Program are placed on a budget plan and cannot be disconnected as long as they make good faith payments. During the heating season, a utility may not ask for a security deposit. "If a customer is eligible for the [Winter Termination Program](#) under 14:3-7.12A, and the high temperature is forecast to be 90° or more at any time during the following 48 hours, an electric utility shall not discontinue residential service to a customer for reasons of nonpayment of a delinquent account, failure to pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement."

Other Disconnection delayed for up to two months if physician certifies that health of household member would be adversely affected. Customer must enter into a payment plan. Cannot disconnect unless the customer owes more than \$50 or more than three months of charges.

PUC/PSC Contacts Consumer line: 800-624-0241

Consumer FAQ/Bill of Rights www.bpu.state.nj.us/bpu/assistance/rights/

Complaint form www.bpu.state.nj.us/bpu/assistance/complaints/inquiry.html

New Mexico

Date-based yes

Protection Dates November 15-March 15

Temperature-based no

Seasonal Policy A public regulated utility company shall not disconnect service to a residential customer for any billing cycle from November 15 through March 15 for nonpayment if the customer meets the qualifications for the low-income home energy assistance program and are current on their bills or if they have entered into a payment agreement with their provider and are current on payments under that agreement by Nov. 15. The utility company shall report the customer's need for assistance to the human services department and the department shall take immediate action to mitigate the problem.

Other No disconnect for seriously or chronically ill if certified by medical professional or if customer qualifies for assistance from Human Services, a charitable organization or Medicaid and if customer agrees to a payment plan. Investor-owned utilities have agreed not to disconnect customers during the moratorium if they are not current on their bills.

Deferred Payments The utility must attempt to make a payment plan with the customer before termination. Disconnection is prohibited if customers agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 888-427-5772

Consumer FAQ/Bill of Rights www.nmprc.state.nm.us/consumer-relations/faqs.html

Complaint form www.nmprc.state.nm.us/consumer-relations/file-complaint.html

New York

Date-based yes

Protection Dates two-week period encompassing Christmas and New Year's

Temperature-based no

Seasonal Policy 15 day shut-off protection

Other Prohibits disconnect if household has life support system; 30 day delay for certified medical condition, certificates may be renewed for 30 days or longer if a chronic condition exists. Prohibits disconnect if customer is blind, disabled, or 62 years or older and the remaining household members are 62 years or older, 18 years or under, or blind or disabled unless the utility contacts the household 72 hours prior to termination of service for the purpose of devising a pay plan. If a pay plan cannot be implemented the utility must delay termination for 15 days and request that social services assist in devising a plan. Between Nov 1-April 15, all customers must be notified 72 hours before disconnection to ascertain if the health and safety of a resident will be compromised. Utility cannot disconnect if a customer will suffer a serious health or safety impairment.

Deferred Payments Utilities must offer payment plan suited to customer's financial situation.

PUC/PSC Contacts Consumer line: 800-342-3355 (disconnect); 800-342-3377 (general complaint)
Email: web_questions@dps.state.ny.us

Complaint form www.dps.ny.gov/complaints.html

North Carolina

Date-based yes

Protection Dates November 1-March 31

Temperature-based no

Seasonal Policy No disconnect for elderly, disabled, and customers who are eligible for the Energy Crisis Assistance Program.

Deferred Payments Disconnection is prohibited if customer agrees and adheres to a payment plan.

PUC/PSC Contacts Consumer line: 866-380-9816 or 919-733-9277

North Dakota

Date-based no

Temperature-based no

Temperature

Seasonal Policy No disconnect for customers who enter into a payment plan.

Other Utilities must delay disconnect for 30 days for customers who are age 65 or older, ill, or disabled.

PUC/PSC Contacts Consumer line: 701-328-4082, 877-245-6685
TTY: 800-366-6888
Email: sfsheldon@nd.gov

Consumer FAQ/Bill of Rights www.psc.nd.gov/docs/ysk/e-1-protection-from-electric-and-natural-gas-disconnections.pdf

Complaint form [Informal](#)
[Formal](#)

Ohio

Date-based yes

Protection Dates October 15-April 15

Temperature-based no

Seasonal Policy The winter reconnect order is issued on an annual basis by the Public Utilities Commission of Ohio. The winter reconnect order allows residential customers who are disconnected or being threatened with disconnection the opportunity to pay no more than \$175 to maintain their utility service. If the customer's service has already been disconnected, the customer must pay a reconnect fee of no more than \$36 to restore. Customers who utilize the Winter Reconnect Order must enter into an extended payment plan on their remaining balance. Customers requesting new natural gas or electric services, who have no previous balance with their utility, may establish service under the winter reconnect order by paying \$175, rather than paying the required security deposit. Customers may utilize the winter reconnect order one time from mid October through mid April.

Other 30 day disconnect delay if dangerous to health or if medical or life support equipment is necessary — as certified by a medical professional. If the customer has been shutoff, and the form is submitted within twenty one days of the shutoff, service is restored. Medical certification may be renewed three times in 12 months.

Deferred Payments Disconnection is prohibited for Percentage of Income Plan (PIP) customers as long as they remain current with their PIP payment.

PUC/PSC Contacts Consumer line: 800-686-7826

Consumer FAQ/Bill of Rights www.puco.ohio.gov/PUCO/Consumer/information.cfm?id=4084

Complaint form www.puc.state.oh.us/secure/PicForm/index.cfm?intype=question

Oklahoma

Date-based yes

Protection Dates November 15-April 15

Temperature-based yes

Temperature 32° F or below (daytime), 20° F or below (night), or heat index 101° F or higher

Seasonal Policy No disconnect if temperatures are 32° F or below during the day, 20° F or below at night or if the predicted heat index is 101° F or greater. 30 day delay and 30 day extension possible in case of life threatening condition. Commission may order a ban on all disconnections if severe weather or if dangerous to health of the customer.

Other Disconnection may be delayed for 30 days with medical doctor or osteopath certification of a life-threatening condition or for life support equipment; certificate may be renewed once. Customer is required to negotiate a payment plan. Disconnection may be delayed for 20 days if the customer has applied for financial assistance including SSI.

Deferred Payments No disconnection if a customer enters into a deferred payment plan.

PUC/PSC Contacts 405-521-2331 (OKC Metro), 800-522-8154

Complaint form www.occeweb.com/Complaints/pucomplaints2.html

Oregon

Date-based no

Temperature-based no

Other A medical certificate will prevent disconnection up to 6 months for non-chronic condition, up to 12 months for chronic condition and requires the customer to set up a payment plan.

Deferred Payments No disconnect if customers enters into a deferred payment plan.

PUC/PSC Contacts Consumer line: 800-522-2404, Salem: 503-378-6600
TTY: 711
email: puc.consumer@state.or.us

Complaint form [Complaint procedure and online form](#)

Pennsylvania

Date-based yes

Protection Dates December 1-March 31

Temperature-based no

Seasonal Policy No termination of utility service between protection dates for customers at or below 250% of the Federal poverty level (150% of the Federal poverty level for customers of one specific municipal gas utility). If a household is shut off prior to December 1, the utility must attempt to contact the customer and attempt to negotiate an agreement regarding payment of any arrearages and restoration of service.

Other 30 day disconnect delay with medical certificate, may be renewed 2 times. Customer is required to negotiate a payment plan. No utility shall terminate or refuse to restore service if health of household member would be adversely affected, need medical certificate.

Deferred Payments No disconnect if customer agrees to payment plan.

PUC/PSC Contacts Consumer line: 800-692-7380
TTY: 711

Consumer FAQ/Bill of Rights www.puc.state.pa.us/general/consumer_ed/pdf/Act201.pdf

Complaint form www.puc.state.pa.us/general/onlineforms/pdf/official_complaint_form_final.pdf (formal)
www.puc.pa.gov/filing_resources/filing_complaints/informal_complaint_form.aspx (informal)

Rhode Island

Date-based yes

Protection Dates November 1-April 30

Temperature-based yes

Temperature Heat advisory or excessive heat warning

Seasonal Policy Disconnect ban for those who are elderly, handicapped or seriously ill, households with a child under 2 years old, those who are receiving unemployment compensation, federal heating assistance or who qualify as a financial hardship (75% or less of state median income) or if arrears are less than \$500 for primary source of heat or less than \$200 if not primary heat source. No termination if National Weather Service issues a heat advisory or excessive heat warning.

Other 21 day disconnect delay if household member is certified as seriously ill. Customer may request an extension. All residential customers can have power restored with a down payment.

Deferred Payments Utilities are required to offer payment plans to customers in danger of disconnection. Emergency termination rule, effective until January 2, 2011 - NGrid customers with a shutoff or shutoff notice who owe less than \$1,000 pay 20 percent of their arrears and agree to pay the rest over a 18-month period; those owing \$1,000 to \$2,499 pay 15 percent down and the rest over a 24-month period and those owing \$2,500 pay 10 percent over 36 months.

PUC/PSC Contacts Consumer line: 401-941-4500

Consumer FAQ/Bill of Rights www.ripuc.org/consumerinfo/Billing_FAQ.pdf

Complaint form www.ripuc.org/consumerinfo/filecomplaint.html

South Carolina

Date-based no

Temperature-based yes: December 1-March 31

Temperature Disconnection is suspended when the average forecasted temperature is 32 degrees Fahrenheit or below for a 45-hour period.

Seasonal Policy 30 day shut-off delay for seriously ill with medical certificate, can be renewed up to 3 times during the winter protection period.

Deferred Payments Disconnect is prevented if customer agrees and adheres to payment plan..

PUC/PSC Contacts Consumer line: 800-922-1531 or 803-737-5230

Complaint form www.psc.sc.gov/consumerinfo/Pages/FileAComplaint.aspx

South Dakota

Date-based yes

Protection Dates November 1-March 31

Temperature-based no

Seasonal Policy Additional notice of 30 days.

Other 30 day disconnect delay if physician, public health official or social service official certifies a medical emergency.

Deferred Payments No disconnect if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 800-332-1782

Consumer FAQ/Bill of Rights www.puc.sd.gov/commission/Publication/n&ebro.pdf

Tennessee

Date-based no

Temperature-based no

Seasonal Policy 30 day disconnect delay if physician, public health official or social service official certifies that a household member's health would be adversely affected. Certificates may be renewed 3 times.

Deferred Payments Utilities are required to offer a payment plan.

PUC/PSC Contacts Consumer line: 800-342-8359
TTY: 888-276-0677

Consumer FAQ/Bill of Rights www.state.tn.us/tra/consumerfiles/CSDhowtofileacomplaint.html

Complaint form www.state.tn.us/tra/complnt.shtml

Texas

Date-based no

Temperature-based yes

Temperature 32° F or below or during heat advisory for all residential customers

Other Disconnection will be delayed if detrimental to the health of a resident, must have physician certification.

Deferred Payments Utilities are required to offer a deferred payment plan. No disconnect if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 888-782-8477 (electric) 512-936-7120 (Austin electric); 515-463-7164 (gas)
Email: GasComplaints@rrc.state.tx.us

Consumer FAQ/Bill of Rights <https://www.puc.texas.gov/consumer/complaint/Rights.aspx>

Complaint form [Electric](#)

Utah

Date-based yes

Protection Dates November 15-March 15

Temperature-based no

Seasonal Policy Must have a termination notice and have been refused utility service; applied for HEAT and Red Cross energy assistance and make a good faith effort to pay utility bill on a consistent basis during moratorium. Also, must meet at least 1 of the following criteria: have an income <150% FPG, medical emergency or becomes unemployed or income is cut by 50% or more.

Other 30 day disconnect delay if detrimental to health, must have physician certification.

Deferred Payments New, continuing, or reconnection of service shall be provided if the customer enters into a written deferred payment plan to pay all past-due amounts.

PUC/PSC Contacts Consumer line: 800-874-0904 or 801-530-7622

Consumer FAQ/Bill of Rights www.publicutilities.utah.gov/faqs.html

Complaint form www.publicutilities.utah.gov/complain.html

Vermont

Date-based yes

Protection Dates November 1-March 31

Temperature-based yes

Temperature 10° F or below or 32° F or below for elderly

Seasonal Policy No disconnect if temperature is less than 10° F or less than 32° F for households with elderly age 62 or older.

Other 30 day disconnect delay if household member's health would be adversely affected, physician certificate can be renewed twice. Cannot disconnect if a customer owes less than \$50, provided that this exception may not be used for more than two billing cycles in one calendar year.

Deferred Payments No disconnect if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 800-622-4496
TTY: 800-734-8390
Email: consumer@state.vt.us

Complaint form <http://psb.vermont.gov/faq>

Virginia

Date-based no

Temperature-based no

Seasonal Policy An investor-owned electric utility, electric cooperative, or public utility providing water service shall, upon request from a residential customer who has a Serious Medical Condition Certification Form filed with the utility, delay termination of service for a minimum of 30 calendar days beyond the expiration of the disconnect notice. Service termination will be delayed for 10 calendar days pending receipt of the Serious Medical Condition Certification Form. An investor-owned electric utility, electric cooperative, or public utility providing water service shall permit a residential customer to delay termination of service under this chapter two times within a 12-month period. The 30-calendar day delays may be consecutive.

PUC/PSC Contacts Consumer line: 800-552-7945
Email: sccinfo@scc.virginia.gov?subject=WebInquiry

Consumer FAQ/Bill of Rights www.scc.virginia.gov/pue/elec/faq.aspx (electric)
www.scc.virginia.gov/pue/gas/faq.aspx (gas)

Complaint form www.scc.virginia.gov/pue/complaint.aspx

Washington

Date-based yes

Protection Dates November 15-March 15

Temperature-based no

Seasonal Policy Protection for hardship customers who qualify or apply for energy assistance and enter payment plan.

Other Disconnection is delayed if a medical emergency exists or 10% of the delinquent balance is paid within 5 business days. Need written certification from a qualified medical professional that is valid only for the length of time the health endangerment is certified to exist but no longer than sixty days. Medical certification can be renewed once within 120 days.

Deferred Payments Disconnection is prohibited if customer agrees and adheres to a monthly payment during the winter period. The utility may not require payment of more than seven percent of the customer's monthly income. In addition, the customer must pay one-twelfth of any billings from the date application is made through March 15th. If the customer does not pay the past-due bill by the following October 15th, the customer will not be eligible for protections under this section until the past-due bill is paid.

PUC/PSC Contacts Consumer line: 888-333-9882
Email: consumer@utc.wa.gov

Consumer FAQ/Bill of Rights www.wutc.wa.gov/

West Virginia

Date-based yes

Protection Dates December 1-February 28

Temperature-based no

Seasonal Policy Disconnections during protection dates are considered detrimental to the health of the customer's household and are prohibited.

Other Disconnection is delayed 30 days if the health of a household member is adversely affected, certified by a physician and can be renewed every 30 days if illness persists. Renewals not needed if physician certifies that condition is permanent.

Deferred Payments Service cannot be disconnected if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 800-642-8544

Consumer FAQ/Bill of Rights www.psc.state.wv.us/psccons.htm

Wisconsin

Date-based yes

Protection Dates November 1-April 15

Temperature-based yes

Seasonal Policy No disconnect during extreme weather unless last resort after all other legal means of collection have been attempted and only if : 1) income is > 250% FPG; health and safety would not be endangered due to presence of elderly, small children, or mentally disabled; and utility has an approved winter disconnection plan on file. (As of 09/2008 no utility has an approved winter disconnection plan on file.) Prohibited when heat advisory from the National Weather Service is in effect.

Other 21 day delay if physician, social services, public health or law enforcement officer certifies to medical or protective services (elderly, infants, disabled etc.) emergency. Customer must agree to payment plan.

Deferred Payments Protection for customers entering payment plans; special notice and links to assistance agencies.

PUC/PSC Contacts Consumer line: 800-225-7729, 608-266-2001 (Madison)
TTY: 608-267-1479

Consumer FAQ/Bill of Rights <http://psc.wi.gov/thelibrary/publications/general/consumer02trifold.pdf>

Complaint form <http://psc.wi.gov/apps40/complaint/consumer/FileComplaint.aspx>

Wyoming

Date-based yes

Protection Dates November 1-April 30

Temperature-based yes

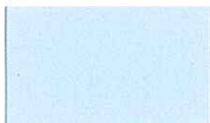
Temperature Disconnection only if above freezing.

Seasonal Policy Temperature-based restrictions if unable to pay and has exhausted available assistance or is actively seeking assistance, or can pay, but only in installments.

Other 15 day disconnect delay if physician certifies that a household member is disabled or seriously ill. 30 day delay if a household member is on life support equipment, customer must enter into payment plan.

Deferred Payments Disconnections are prohibited if customer agrees and adheres to payment plan.

PUC/PSC Contacts Consumer line: 888-570-9905, 307-777-7427
Email: wpsc_complaints@wyo.gov



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