

Public Service Commission

**3002 Regulations Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions**

PSC REGULATION DOCKET NO. 53  
(Opened: April 15, 2003 (PSC Order No. 6148))

**1.0 General**

1.1 Authority

These regulations are adopted pursuant to the authority granted to the Public Service Commission under 26 **Del.C.** §209(a) and 29 **Del.C.** §101.

1.2 Application and Purpose

These regulations establish uniform procedures which must be followed prior to termination of service for non-payment during the heating or cooling season and apply to all covered utilities. The purpose of these regulations is to protect public health, safety, and property by taking reasonable steps to insure that an individual has the opportunity to act to avoid termination of certain utility services for non-payment during the heating or cooling season without imposing substantial additional cost on other utility customers. Notwithstanding anything stated in these regulations to the contrary, the provisions of these regulations do not apply during the cooling season to a customer of a natural gas utility, unless the natural gas utility provides natural gas service for space cooling to the customer's dwelling unit.

**2.0 Definitions**

**"Cooling Season"** means that portion of the calendar year extending from June 1 through September 30.

**"Covered Utility"** means any utility regulated by the Public Service Commission of Delaware that supplies electric or natural gas service to a dwelling unit.

**"Dwelling Unit"** means one or more rooms arranged for the use of one or more individuals as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

**"Heat Index"** a measure utilized by the National Weather Service of the apparent temperature (how hot it feels) when relative humidity is added to the actual air temperature.

**"Heating Season"** means that portion of the calendar year extending from November 15 to March 31.

**"Personal Contact"** means a face-to-face meeting between the customer or responsible occupant of the premises served and an employee of the covered utility who is authorized to receive payment and issue a receipt or make other arrangements for payment.

**"Written Notice"** means notice in writing, mailed by First Class mail to the person who is being given notice, using the current billing address as shown on the records of the utility.

**3.0 Prohibitions**

3.1 Written and Verbal Notice

- 3.1. Notwithstanding any tariff provision or contract provision to the contrary, no covered utility shall terminate service to a dwelling unit during the heating or cooling season for non-payment of a past due bill or bills, unless at least fourteen (14) calendar days prior to such termination, written notice is given to the customer. The notice shall state the fact of impending termination, the date on or after which such termination will occur, and the steps which may be taken to avoid such termination. In addition, during the heating season, the covered utility shall make at least two (2) documented attempts on separate days to contact the customer by telephone prior to actual termination of service. One such attempt shall be after 6:00 P.M. During the cooling season, the

covered utility shall make at least one (1) documented attempt to contact the customer by telephone prior to actual termination of service.

- 3.1.2 During the heating season only, in those situations where the billing address is different from the location at which the service is being provided, the advance written notice required by §3.1.1 must also be given to the occupant of the premises being served.

3.2 Content of Notice

The written and verbal notice required by §3.1.1 shall, at a minimum, include notification of the following:

- 3.2.1 The date on or after which termination of service will occur unless some satisfactory arrangement is made for the payment of the undisputed delinquent bill or bills, which date shall be no less than fourteen (14) calendar days from the mailing of written notice.

- 3.2.2 That if there is a good faith dispute concerning the unpaid bill or bills, termination of service will not take place pending determination of the dispute, provided the utility is notified of the existence of the dispute prior to actual termination. In this regard, the utility must also give the name or names of the persons or office authorized to receive notification of the existence of the dispute and empowered to resolve such disputes, together with the telephone number and address at which such persons or office can be contacted and notified of the existence of a dispute. No covered utility shall be required to delay termination of service pending resolution of a disputed bill or bills where the undisputed portion of the bill or bills would otherwise justify termination of service or where the customer does not agree to pay current undisputed bills as they become due and to eliminate undisputed arrearages by installment payments. Service will not be reconnected after termination for non-payment on the grounds that a good faith dispute exists unless and until arrangements satisfactory to the covered utility have been made for payment in the event the dispute is resolved in favor of the utility.

- 3.2.3 That if the customer is unable to pay the full amount of the undisputed bill or bills, termination of service may be avoided by entering into an initial installment agreement with the utility whereby the customer will agree to pay current bills as they become due and eliminate, by monthly installment payments, the undisputed arrearage over a period of not less than that during which the unpaid bills were incurred with interest on the unpaid balance at the next billing date. If the customer violates the initial installment agreement, the limitation on the minimum duration of the initial installment agreement shall not apply to any subsequent installment agreement. The interest rate shall be set forth in the approved tariff of the covered utility. The name, address, and telephone number of the utility employees or office empowered to enter into installment arrangements on behalf of the covered utility must be provided to the customer.

- 3.2.4 That if the customer is unable to pay the undisputed bill or bills in full, or to enter into a satisfactory reasonable installment arrangement, there are charitable or governmental organizations or agencies that may be able to assist customers who are so situated and that the customer should immediately contact such organizations. The written notice required by §3.1.1 shall contain either a list of those organizations who have notified the covered utility that they may be able to assist customers, or the name and telephone number of an organization that the customer can contact to obtain such information.

- 3.2.5 That if any occupant of the dwelling unit is so ill that termination of the utility service would adversely affect health or recovery, which fact has been certified by a statement from any licensed Delaware physician or any accredited Christian Science practitioner, when such certification is received by the covered utility or its employee, termination of service is prohibited by Delaware Law (26 **Del.C.** §117(d)).

3.3 Final Contact Prior to Termination

The employee of the utility who is to disconnect service shall make a reasonable good faith attempt to make personal contact at the premises to be disconnected. If personal contact is made, the employee shall:

- 3.3.1 Identify himself or herself to the customer or some responsible person then upon the premises and shall announce the purpose of his or her presence.

- 3.3.2 Identify and record the name of the person contacted.
- 3.3.3 Accept payment of all amounts tendered which are necessary to avert disconnection and issue a receipt for such payment. If the form of payment is unacceptable to the utility, the employee can make other payment arrangements with the customer.
- 3.3.4 Record and report to his or her supervisor any statements disputing the accuracy of the utility's findings concerning the cause for termination of service.
- 3.3.5 Record and report to his or her supervisor statements or other information concerning the existence of any condition on the premises which would result in a medical emergency if service were terminated.
- 3.3.6 Receive written certification from a duly licensed Delaware physician or accredited Christian Science practitioner that a named occupant of the dwelling unit is so ill that termination of service will adversely affect the occupant's health or recovery. Upon receipt of such certification, the utility shall not disconnect service.

#### **4.0 Third Party Notice**

- 4.1 Non-Mandatory Third Party Notice  
All covered utilities shall inform all of their customers of the availability of any third party notification program offered by the utility, whereby the customer can designate, in writing, a third person to receive notice of past due bills and written notice of termination of service. The third party so designated must indicate, in writing, willingness to receive such notice and shall not be held, in any way, liable to the utility by reason of acceptance of third party status.
- 4.2 Termination Notice Without Third Party Notice Program  
No covered utility without a third party notice program, shall terminate service to a dwelling unit during the heating or cooling season without first having given the written notice required by §3.1 and, in addition, having made actual contact on a face-to-face basis with an occupant over the age of 15 years of such dwelling unit, giving the minimum notice set forth in §3.3.
- 4.3 Information Concerning Third Party Notice  
If a covered utility adopts such a program, the utility shall take appropriate steps to see that all customers are aware of the existence of the third party notice program.

#### **5.0 Termination Of Service To Multiple Occupancy Dwelling Units Served Through A Master Meter**

- 5.1 Prohibition  
Notwithstanding any tariff provision or contract provision to the contrary, no covered utility shall terminate service during the heating or cooling season to any apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, unless such utility has provided the notice required in §§ 5.2 and 5.3.
- 5.2 Notice to Owner  
A written notice pursuant to § 5.1 shall be sent by First Class mail not less than fourteen (14) calendar days prior to the scheduled date of termination for non-payment to the owner of the premises affected or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered or from whom or which the covered utility has received payment. The content of such notice shall, at minimum, include the notification required by § 3.2.
- 5.3 Notice to Occupants  
The covered utility shall, at least ten (10) calendar days prior to termination for non-payment, provide notice to the occupants, which notice shall state the intended date of termination of service, the amount due for such service, and the procedure by which any tenant or public agency may make or guarantee such payment, and thereby avoid termination of service.  
Such notice to occupants shall either be mailed by first class mail to the "occupant" of each dwelling unit in the building complex to which service is proposed to be terminated or posted in a conspicuous

place or places at each building subject to termination, including common areas accessible to the utility.

**5.4 Notice to State Agencies**

Not less than fourteen (14) calendar days prior to termination of service to a multiple occupancy dwelling unit, the covered utility shall provide written notice of its intention to so terminate to the Public Service Commission of the State of Delaware, and to the Division of the Public Advocate.

**6.0 Prohibition On Termination During Extreme Seasonal Temperature Conditions**

**6.1 Conditions of Termination**

**6.1.1 Heating Season**

Under no circumstances may a covered utility terminate service for non-payment to a dwelling unit on a day when the National Weather Service reports that the 8:00 A.M. temperature measured at a location in the State of Delaware that is within fifty (50) miles of the subject dwelling unit is thirty-two degrees Fahrenheit (32°F) or below on the morning of the date when said service is scheduled for termination.

**6.1.2 Cooling Season**

Under no circumstances may a covered utility terminate service for non-payment to a dwelling unit on a day when the 8:00 A.M. National Weather Service forecast contains a special weather statement or other information predicting that the Heat Index measured at a location in the State of Delaware that is within fifty (50) miles of the subject dwelling unit may equal or exceed one-hundred five degrees Fahrenheit (105°F) on the date when said service is scheduled for termination.

**6.2 Deferred Termination**

Where termination of service, otherwise authorized, has been deferred by virtue of § 6.1, notice of such fact shall be left at the subject dwelling unit on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated thereafter on a day when § 6.1 does not apply. If the termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwelling units to which service is provided directly or indirectly through a master meter without individual meters, the notice required by this section shall be deemed sufficient if the notice is given in accordance with § 5.3.

**7.0 Penalty And Burden Of Proof**

**7.1 Penalty**

Any covered utility determined, after hearing, to have terminated service for non-payment to a dwelling unit or multiple occupancy dwelling unit in violation of these regulations, may be fined an amount equal to twice the amount of arrearage for which service was terminated, or such lesser amount as deemed appropriate after full consideration of the circumstances. The fine which may be imposed shall not exceed the sum of \$1,000 for each day during which the termination is in violation of these regulations.

**7.2 Burden of Proof**

The burden of proof of compliance with these regulations shall be upon the covered utility at any proceeding instituted by formal written complaint to or upon motion of the Public Service Commission of Delaware. The Commission specifically reserves the right to randomly select termination cases and require the covered utility to appear before the Commission at a duly noticed hearing and establish compliance with these regulations.