



Consumer Protections: The Home Energy Fair Practices Act

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Background

- 1981 – Legislature enacts the Home Energy Fair Practices Act (HEFPA)
 - Sometimes referred to as the “Utility Consumer Bill of Rights”
 - Ensures that residential customers receive fair treatment from service providers
- Amendments:
 - 1986 – extended to private water companies
 - 1995 – enacted the “shared meter” law
 - 2002 – “Energy Consumer Protection Act” – applies most of HEFPA to Energy Service Companies (ESCOs)
- Implemented/Enforced through:
 - PSC regulations (16 NYCRR Part 11)
 - PSC Orders
 - PSC Complaint/Hotline procedures
 - All utilities have service quality mechanisms that cause them to forfeit revenues if complaint rates are too high
 - ESCO’s eligibility to provide service may be revoked

Applications for Service

- Utilities generally must provide service based on an applicant's oral application for service.
 - Written applications can only be demanded where there are arrears at the premises, there is evidence of meter tampering or it is a third party application.
 - Regardless of whether it is a written or oral application, a utility is always entitled to reasonable proof of an applicant's identity. If the customer can not provide such proof, service can be denied.
 - Applicants may be requested, but are not required, to supply a social security number and must be informed that disclosure of a social security number is voluntary
 - Where ID cannot be verified, utility can choose to provide service with posting of a deposit.
- Generally a utility must supply service within 5 business days of the application (exceptions for weather, labor problems, line extensions, etc.)
- A utility may only deny an applicant residential service because of an outstanding amount if the arrears are to a prior residential account in the applicant's name.
- If a utility decides to deny an applicant's service request, it must do so within 3 business days of the receipt of the application.
 - The denial must state the reason for the denial, what the customer must do to qualify for service, and that the customer has the right to seek Commission review.
- Customers who move within the same utility's service territory and request service within 60 days shall be eligible to receive service at the different dwelling, and such service shall be considered a continuation of service in all respects, and any existing DPAs will be honored

Final Termination Notice

- A utility can only shut-off utility service for non-payment of charges for charges appearing on its bill.
 - Now includes On-Bill Financing
- Before a utility may shut-off service for non-payment, it must send the customer a lawful disconnection notice.
 - The disconnection notice may not be sent until 20 days after the bill was due. (Bills can be due upon receipt if served on a customer or 3 days after mailing.) The disconnection notice must give the customer at least 15 days to pay the bill. Thus the earliest service can be shut-off is 38 days after a bill is mailed or 35 days after the bill is served on the customer.
 - The sending of a disconnection notice triggers the utility's obligation to offer a DPA (see below).
- Disconnections may only take place Monday through Thursday from 8 a.m. to 4 p.m. Service also may not be shut-off on a holiday, the day before a holiday or a two-week period encompassing Christmas and New Years.

Special Procedures/Vulnerable Populations

- HEFPA provides special protections and shut off procedures for circumstances where customer health and safety may be threatened by lack of service.
 - Customers with medical emergencies
 - Elderly, blind or disabled (EBD)
- Protections against service shut off for non-payment of bills apply to all customers during the cold weather period between November 1 and April 15
- Third Party Notification
 - Customers can select a "third party," such as a relative or friend, to receive all notices relating to service termination or other service provider credit actions relating to their account.
 - This is an especially valuable protection for consumers who are unable to fully understand company notices.
 - The third party is not responsible for paying the bill.

Medical Emergencies

- A utility must continue or restore service when a doctor or board of health advises the utility that there is a medical condition in the customer's household that will be aggravated by loss of service. An oral notification must be followed in writing within 5 days.
- The initial certification is good for 30 days but can be renewed if condition is recertified and the customer can demonstrate that he/she is unable to pay.
- In cases involving life support equipment (LSE), the utility must obtain the Commission's approval before disconnecting service.
 - Utilities are required to maintain a current list of customers who use LSE and include them in their emergency plans

Elderly, Blind or Disabled

- To qualify everyone in the household must be EBD or a minor.
- Year round, before a utility may shut-off service to a known EBD household, the utility must contact the household at least 72 hours before the intended termination and attempt to devise a plan to avoid the disconnection.
- If the utility can not devise a plan, the utility must continue service for at least 15 days and notify DSS.
- If service is terminated, within 10 days the utility must attempt to again contact the household to see whether alternate arrangements have been made and/or to work out a payment arrangements.

Cold Weather Protections

- Unlike many other northeast states, New York State does **not** impose a moratorium on disconnection of electric or gas heating service during the winter. Instead the Cold Weather Rules were enacted.
- The rules are in effect from November 1 until April 15 and apply to all residential customers who use service to heat their homes or to start their heating system.
- If an utility intends to disconnect service to such a customer, at least 72 hours before the intended termination, and at the time of the field call, the utility must attempt to contact the household to see whether a resident is likely to suffer a "serious impairment to health or safety" if service is disconnected.
- If the utility finds such a likelihood, the utility must continue service and refer the household to DSS and must await a DSS determination.
- If a utility, does disconnect heat related service and the customer does not contact the utility by noon the next day, the utility must make a site visit to determine whether there is a hardship.
- Between September and November of each year, the utility must survey all heat related accounts that were disconnected and are still off to determine whether any serious impairments exist. If the utility finds any it must restore service and refer to DSS.

Rules for Multiple Dwellings

- In addition to normal disconnect procedures, before disconnecting service, the utility must post and mail notices to tenants.
- An option available to tenants to avoid service disconnection is for them to pay current utility/ESCO bills directly and deduct the payments from their rent payments. This is allowed by State law, and your service provider can help you with this option.

Reconnection of Service

- Unless prevented by uncontrollable circumstances, a utility must reconnect service within 24 hours of the customer:
 - paying the charges for which service was disconnected (i.e. only the charges on the disconnection notice;
 - agreeing to a deferred payment agreement;
 - receipt of a 131-s payment and/or a guarantee from DSS; or
 - where the utility has notice that a serious impairment to health or safety will result.

Suspension of Distribution Service/Commodity Supply

- The HEFPA statute was modified by the Energy Consumer Protection Act (ECPA) in 2002.
- For purposes of HEFPA, the term “utility” now means
 - any gas corporation, electric corporation, gas and electric corporation, steam corporation, municipality (provided, however, that the term does not include any municipality that is exempt from Commission regulation by virtue of section 1005 (5)(g) of the Public Authorities Law), or
 - any entity that, in any manner, sells or facilitates the sale, furnishing or provision of gas or electric commodity to residential customers
 - ESCOs
 - Submetered buildings
- The modifications generally addressed the introduction of competition to energy services in NYS and applied much of HEFPA to competitive energy suppliers.
 - The biggest difference between how HEFPA applies to utilities and competitive energy suppliers is that the latter were not required to accept all applicants for service as utilities are.
 - Competitive energy suppliers can request the utility to suspend the customer’s delivery service for non-payment, subject to the applicable consumer protections.
 - Such suspensions would last a maximum of one year as opposed to utility non-payment disconnections, which are not time limited.

Deferred Payment Agreements

- Before a utility may disconnect service for non-payment, it must generally make an effort to contact the customer to negotiate a DPA. (The exception is if the utility can demonstrate to Staff that the customer can pay the bill.) If a customer can demonstrate need, installments can be as low as \$10 per month.
- If there has been no contact with the customer, 10 days (if mailed) before the intended disconnection date, utility must make a standard written DPA offer. Maximum terms are essentially 15% down and installments of up to one-half of one month's average usage.
- To be binding on a customer the DPA must be in writing.
 - NFG “electronic DPA” pilot
- Customer can renegotiate if the agreement was clearly unreasonable or there are changed financial circumstances. Otherwise an utility need not offer another agreement to a customer in default on an existing agreement.



Budget Billing

- Consumers who wish to spread their gas or electric bills evenly over a 12-month period may obtain levelized payment plans, also known as budget plans.
- Budget billing helps even out bills that are high in one season and low in another so that energy charges stay the same throughout the year.
- It does not reduce your overall energy expenses for the year, but it does help you manage your budget.

Security Deposits

- A utility can not take a deposit from:
 - a new customer, unless the customer is seasonal or short term;
 - a customer known to be on public assistance; or
 - a customer known to be 62 or older who has not been disconnected for non-payment during the last 6 months.
- A utility may request a deposit from a delinquent customer.
 - Delinquency is defined as being 2 consecutive months in arrears without paying at least one-half of the arrears or
 - having been shut-off for non-payment.
- A deposit may be no more than twice the average bill during the heating season.
- In most cases deposits can be paid in installments.

Estimated Bills, Backbilling & Late Payment Charges

- If a utility rendered estimated bills for 4 months, it must contact the customer to make an appointment for an off hours reading.
 - At 8 months the utility must contact the customer and the access controller stating that starting with the next bill, a no access fee will be charged to the access controller.
 - If after obtaining access, the customer owes more than \$100, the utility must advise the customer that he has a right to pay it off over time.
- Backbilling (exceptions for cases of utility negligence/culpable customer conduct)
 - No charge for previously unbilled service after six months
 - No upward adjustment of previously billed service after 12 months
 - Adjustments of \$100 or more must include offer of DPA
- Late Payment Charges
 - As long as there is a provision in the utility's tariff, it can impose a 1.5% LPC on the unpaid balance of any bill not paid within 20 days of the date payment was due.
 - Customers are not responsible for late fees on amounts in dispute with the utility or the PSC while that dispute is being investigated. However, if you are found to owe the amount in dispute, you will also have to pay the applicable late charges.



Miscellaneous

- Contents of Bills
- Notification requirements
- Emergency Disconnection
- Inspection of Utility Facilities
- Complaints to the Utility
- Emergency Hotline
- Waiver
- Shared Meter



Questions?

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