

Consumer Protection, Dispute Settlement and Enforcement in New York

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Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Enacted in 1981
 - *State policy established -- the continued provision of gas, electric and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest*
 - Provisions cover elements of basic service to residential customers
 - Protections for special populations
 - *Medical emergencies*
 - *Life support*
 - *Elderly, blind or disabled*
 - *Low-income*

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Applications for Service
 - *Requires utilities to provide service upon the request of an applicant*
 - *Sets forth limited circumstances that allow utilities to deny applications*
 - Termination of Service
 - *Prescribes circumstances under which a utility may terminate service for failure to pay*
 - Reconnection of Service
 - *Prescribes circumstances where a utility is required to reconnect service upon payment of arrears or the signing of a deferred payment agreement*

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Residential Service Deposits
 - *Forbids utilities from requiring up front payments as a condition of receiving service, unless customer is a seasonal or short-term customer, or is delinquent in payments*
 - Deferred Payment Agreements
 - *Requires utilities to offer deferred payment agreements designed to recover amounts in arrears over time prior to termination or refusal to restore service*
 - Meter Reading and Estimated Bills
 - *Allows utilities to render estimated bills where the utility is unable to obtain actual meter readings or it is authorized for billing periods between scheduled actual meter readings*
 - *Sets forth actions utilities may take to secure an actual meter reading, such as appointments with the customer*

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Voluntary Third Party Notice Prior to Termination of Service
 - Finality of Charges for Service
 - *Sets time limitations for upward adjustments on bills for previously unbilled service, except when the customer is culpable or utility was not at fault*
 - Late Payment Charges
 - *Limits charges to 1.5% per month of any unpaid balances*
 - *Cannot be applied to amounts under dispute, until resolution*
 - Complaint Handling Procedures
 - *Requires the PSC to maintain regulations with regard to complaint investigations, informing complainants, refraining from terminations during the pendency of a complaint*

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Utility Bills
 - *Requires bills to be clear and understandable and allows the PSC to specify the form and content*
 - *Requires annual notice of customer rights*
 - Emergency Disconnection to Residences
 - *Allows utilities to disconnect service in emergencies*
 - Inspection and Examination of Apparatus
 - *Allows agents of utilities to enter any property to inspect equipment used to supply service*
 - ❖ Agent must exhibit a photo identification badge and a written authority signed by a corporate officer
 - ❖ Inspections must take place on workdays except in emergencies
 - ❖ Agents may only enter locked premises in emergency situations

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Shared Meters
 - *Provides procedures for inspecting and remedying situations in multiple dwellings where tenants might be paying for service to areas outside their dwelling space*
 - ❖ Requires owners to eliminate such conditions and pay for charges to tenant for service outside their dwelling area

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA)
 - Amendment enacted in 2002, in light of the restructured competitive retail energy market
 - *New York State Legislature enacted the Energy Consumer Protection Act which amended HEFPA to include energy service companies (ESCOs) and any other entity that provides gas and electric service to residential customers*

Regulations and Requirements to Protect Customers

- The Home Energy Fair Practices Act and the Energy Consumer Protection Act (HEFPA) (cont'd)
 - Amendment enacted in 2002 (cont'd)
 - *ESCOs now required to provide their customers with protections similar to those afforded to gas and electric utility customers*
 - *New provisions ensure fair treatment of all residential energy customers, and serve to strengthen consumer protections and consumer confidence in New York's competitive energy market*
 - PSC adopted rule changes in 2004 to comport with the amended HEFPA Law

Types of Disputes

- Typical Customer Disputes Regarding Utility Service
 - Bills for Utility Service
 - *Deposit requests*
 - *Is appropriate rate, or rate discount, being applied to bill? (i.e., Empire Zone Discount for businesses in empire zones)*
 - *Accuracy of meters and meter reads*
 - *Overdue customer bills and late fees*
 - Customer Expense to Connect to System
 - *Customers are allowed 100' of service line (from existing utility system), and must pay all expenses beyond that 100'*
 - Service Problems (i.e., interruptions, power quality)

Consumer Complaint Handling Procedures

- 16NYCRR Part 12 - Consumer Complaint Handling Procedures
 - Allows utility customers (*electric, gas, steam, telephone, or water*) to file a complaint with the PSC if a customer has not obtained a satisfactory resolution of the dispute with the regulated utility
 - Commission's complaint process -- three levels of investigation
 - *Initial complaint*
 - *Informal hearing or review*
 - *Appeal to the commission*

Consumer Complaint Handling Procedures

- 16NYCRR Part 12 (cont'd)
 - Initial Complaint Process
 - *Can file by internet, telephone, letter or in person*
 - *Utilities are requested to contact the customer to resolve the concern (to ensure utilities fulfill their obligation to provide effective customer service)*
 - *If still unresolved, consumers can contact the Commission's Office of Consumer Services, and the matter will be investigated and the findings reported to the consumer*
 - *Consumer must pay the portion of their bill that is not in dispute or service may be terminated by the utility*

Consumer Complaint Handling Procedures

- 16NYCRR Part 12 (cont'd)
 - Informal Hearing or Review
 - *If consumer believes the initial decision is wrong, a request can be made for an informal hearing or informal review*
 - *A request for informal hearing or review should be made in writing and made within 15 days of the initial decision*
 - *After the request is reviewed, the consumer receives a letter stating when and where the informal hearing will be held*
 - *The consumer does not have to be present at an informal review*
 - *If the consumer and the utility are unable to settle the complaint, the hearing officer or reviewer will make a decision on the complaint and notify the consumer of the decision in writing*

Consumer Complaint Handling Procedures

- 16NYCRR Part 12 (cont'd)
 - Appeal to the Commission
 - *If the consumer believes that the informal hearing officer's or reviewer's decision is wrong, an appeal can be made to the Commission within 15 days of the decision*
 - *A written appeal must contend that there was an error by the hearing officer or reviewer that affected the decision or that evidence not previously available would affect the decision*
 - *The Commission will make a decision on the appeal and may uphold, change, reject, or return the decision to the hearing officer or reviewer for further consideration, or may order further proceedings*
 - *The consumer is notified in writing of the Commission's decision*

Other Forms of Alternative Dispute Resolution

- Uniform Business Practices
 - Provides specific procedures for dispute resolution among energy utilities, direct customers, and ESCOs
- Expedited Dispute Resolution
 - Provides a dispute resolution process for telecommunications carriers with business-affecting, customer-impacting telecommunication disputes

Other Forms of Alternative Dispute Resolution

- Alternative Dispute Resolution Available from PSC
 - Assisted Negotiations: Use of a facilitator to assist parties in achieving acceptable solutions
 - *Conciliation*
 - *Facilitation*
 - *Mediation*
 - *“Ombuds” Service*
 - *Negotiated Rule-Making*

Other Forms of Alternative Dispute Resolution

- Alternative Dispute Resolution Available from PSC
(continued)
 - Facilitated Procedures: Settlement procedures used to assist parties during a litigated proceeding
 - *Fact Finding*
 - *Early Neutral Evaluation*
 - *Technical Conference*
 - *Mini-trial*
 - Adjudication: Imposition of a solution to a conflict
 - *Binding Arbitration*
 - *Mediation/Arbitration*

Disputes Concerning Third Party Access to the Distribution Network

- Distributed Generation (DG) – Rules of Grid Interconnection
 - New York has standard interconnection requirements
 - *2 MW and under*
 - *Certified equipment listed on website*
 - *Includes networks*
 - *Model contract language*
 - *Defines process/deadlines*
 - Connection is governed by utility
 - *Safety*

Disputes Concerning Third Party Access to the Distribution Network

- DG – Rules of Grid Interconnection (cont'd)
 - Guidelines for connections charges vary
 - *Net Metering – Small Residential PV, Farm Waste*
 - ❖ Residential PV up to 10 kw
 - ❖ Farm waste up to 400 kw
 - ❖ Cost limit for dedicated transformer
 - *Net Metering – Residential and Farm Wind*
 - ❖ Wind – residential up to 25 kw
 - ❖ Farm residences up to 125 kw
 - ❖ Cost limit for dedicated transformer
 - ❖ Responsible for one-half of other interconnection costs

Disputes Concerning Third Party Access to the Distribution Network

- DG – Rules of Grid Interconnection *(cont'd)*
 - Development of rules through collaboration
 - *Utilities implement rules*
 - *PSC enforces rules and resolves conflicts*
 - New York active in FERC efforts to develop national interconnection standards in collaboration with others

Disputes Concerning Third Party Access to the Distribution Network

- DG Disputes
 - There have been no formal requests to date for formal dispute resolution by Commission
 - Informal disputes have been resolved by Commission staff
 - *Most disputes involve communication issues*
 - *Staff recommends the utility and customer first try to resolve dispute*

Disputes Concerning Third Party Access to the Distribution Network

- Case Study – Commercial Photovoltaic Customer
 - 10 kva, numerous locations (30 or more)
 - Dispute regarding need for isolation transformer
 - *Substantial cost increase*
 - Isolation transformer determined to be in compliance with national safety codes
 - Staff facilitated modified connection at certain locations
 - *Locations determined to not affect utility system*
 - *Reduced overall cost*
 - *Maintained integrity of interconnection standards*