



**USAID**  
FROM THE AMERICAN PEOPLE



N A R U C  
National Association of Regulatory Utility Commissioners

## National Association of Regulatory Utility Commissioners Energy Regulatory Partnership Program

### **Consumer & Utility Rights & Obligations**

Raj Addepalli – NYS PSC  
Chief, Resource Policy and Planning  
Office of Electricity and Environment  
NYS Department of Public Service

Sponsored by USAID and NARUC  
June 2007

# Overview

- The NYS PSC is responsible for the provision of safe and reliable service at just and reasonable rates.
- It is charged with providing service to all NYS applicants without unjust discrimination.
- The NYS PSC's authority comes from the NYS Legislature which empowered it to represent the public interest in matters related to the provision of electric, gas, and telecommunications services.
- The chairperson of the NYS PSC is also the CEO of the Department of Public Service.
- The Department of Public Service staff work to represent the public interest in matters before the Commission and to provide technical and legal assistance to the NYS PSC.

# Overview

- The relationship between the consumer and the utility or competitive commodity supplier are defined by:
  - New York State Public Service Law (PSL) and other statutes – Home Energy Fair Practices Act (HEFPA)
  - New York Codes, Rules, and Regulations (NYCRR)
  - Utility tariff and supplier contract
  - Commission orders and opinions

# NYS PSL – HEFPA

- Residential energy consumer protections are primarily based on HEFPA.
- HEFPA was enacted in 1981 and addressed:
  - applications for service
  - termination of service
  - special rules for
    - cold weather periods
    - elderly, blind or disabled customers
    - medical emergencies
  - restoration of service
  - deferred payment agreements (debt repayment)
  - budget/levelized payment plans
  - service deposits
  - meter reading and estimated bills
  - backbilling
  - late payment charges and interest rates
  - bill content
  - complaints and emergency hotline

# NYS PSL – HEFPA

- The HEFPA statute was modified by the Energy Consumer Protection Act (ECPA) in 2002.
- The modifications generally addressed the introduction of competition to energy services in NYS and applied much of HEFPA to competitive energy suppliers.
- Competitive energy suppliers were now subject to consumer protections, such as the provision of budget billing, DPAs, deposits, late fees, etc.
- 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 could now 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.

# Consumer Protections

- All customers should be provided service by the utility; there are minor exceptions
- Utilities have to follow several steps before they terminate service to a customer
- Cold weather termination rules (cannot terminate during winter for heating customers)
- Third Party Notification to customer-specified representative (e.g. family member)
- Customer Deposit requirements Budget Billing (levelized payments)
- Deferred Payment Agreements (based on financial hardship of customer); obligation to inform Department of Social Services
- Utility Metering requirements; utility rights to access customer meters
- Utility Billing requirements
- Customer Notification requirements
- Commission responsibilities related to customer complaints, utility metering, billing

## NYS Statutes Regarding Non-Residential Service

- Other parts of the NYS PSL address service to commercial and industrial customers.
- These parts address rights and responsibilities, such as:
  - safe and adequate service.
  - just and reasonable charges.
  - unjust discrimination.
  - protection of privacy.
- As well additional laws address utility service such as the Transportation Corporations Law, which among other topics addresses specifically the requirement of utilities to serve non-residential customers and the siting of electric generation
- The siting laws address the rights and responsibilities of those seeking to build generation. The rights of property owners are contained here.

# NYS PSC Regulations

- The NYS PSC regulations are codified in the NYSCRR (NYS Codes, Rules, and Regulations).
- They reflect the implementation of the NYS PSL and other important Commission regulations, including the non-residential consumer protections.
- The non-residential consumer protections apply to commercial and industrial customers and are modeled on many of the protections afforded residential customers under HEFPA.
- Since only the residential regulations are based on the NYS PSL, there exist some differences between residential and non-residential protections, such as the rules that apply to medical emergencies and cold weather shut offs.

# Utility Tariffs

- The utility tariff is the contract between the customer and the utility, providing the terms of service and the rights and responsibilities of both consumers and utilities.
  - Each service class is defined by the characteristics of service.
  - Tariffs include information regarding such topics as:
    - How to obtain service
    - Extension of utility facilities – mains and services
    - Metering and billing
    - Discontinuance of Service
    - Liability of the parties
    - Application forms
    - How to file inquiries and complaints
    - Interest on overpayments
    - Distributed generation interconnection requirements

# Utility Tariffs

- Utility tariffs are based on NYS Public Service Law, NYS PSC regulations, and Commission Opinions and Orders.
- For example:
  - many residential consumer protections in the tariffs comply with the Home Energy Fair Practices Act (HEFPA), which is part of the PSL.
  - business consumer protections in the tariffs comply with the NYS PSC non-residential customer rules which are in its regulations.
  - rules regarding interconnection of customer-owned generation and large customer meter ownership are based on NYS PSC Orders and Opinions

# Competitive Supplier Contracts

- Competitive supplier contracts serve some of the same purposes as utility tariffs and are subject to NYS Public Service Law and commercial statutes, NYS PSC regulations, and Commission Opinions and Orders.
- Generally, the commodity price included in supplier contracts is not regulated.
- Portions of a residential contract must conform with HEFPA and all contracts must conform with NYS PSC regulations and orders.
- For example:
  - suspensions for residential non-payment of commodity are subject to medical and cold weather restrictions.
  - residential consumer complaint procedures are the same as for the utilities.
  - business consumer complaint procedures are addressed by small claims court or arbitration in NYS.
  - Residential contracts must include budget billing provisions.

# NYS PSC Orders and Opinions

- The Commission issues orders and opinions, addressing everything from generic policy decisions to utility rate proceedings to individual customer complaints.
- The Commission orders and opinions produce additional utility requirements outside of those contained in the NYS PSL and the regulations.
- These requirements have addressed such issues as:
  - Distributed generation interconnection standards.
  - Applicability of mandatory hourly pricing to large customers.
  - Consumer protections not covered by the PSL or regulations, such as:
    - Uniform Business Procedures for competitive supply service.
    - Additional billing format requirements.
    - Large customer rights for meter ownership and competitive meter services.
    - Applicability of special rates, such as standby rates for self-generators.

# NYS PSC Orders and Opinions

- The Commission can address individual consumer complaints in an order.
- Customer complaints are generally first addressed by Department of Public Service employees when the customer and the utility cannot come to agreement.
- If the customer or the utility do not agree with the Department determination, an appeal can be made and an administrative law judge assigned to determine or mediate the complaint.
- Finally, if the complaint cannot be resolved satisfactorily at this level, the complaint can be appealed to and ruled upon by the Commission.

# Other Consumer Rights and Obligations

- Additional consumer rights and obligations stem from the NYS PSL:
  - eligibility for net metering for wind, manure digester, and solar technologies.
  - access to utility property on customer premises.
  - application of residential rates to veteran organizations, religious bodies and community residences.
  - home insulation and conservation.
  - siting of major utility transmission facilities, including property rights and siting requirements.

## Other Utility and Consumer Rights and Obligations

- Additional utility and consumer rights and obligations stem from the NYS PSC regulations, such as:
  - procedures related to hearings and other matters before the PSC.
  - public access to PSC records.
  - implementation of the State Environmental Quality Review Act (SEQRA) – procedures related to environmental review of utility and PSC actions.
  - rules regarding the planning and installation of distribution facilities.

# Metering

- Requirements on new meters and meter devices that are installed for billing purpose
- Commission approves the meters before utilities installs meters
- Ongoing meter testing requirements on utilities to ensure continued accuracy of meters
- Staff reviews utility reports and does periodic audits

# Billing

- Some utilities do bimonthly meter reading, but monthly billing with estimated meter reads in between
- Commission monitors accuracy of utility billing
- Customers pay by mail, by phone, internet, walk-in utility office, at grocery stores etc.
- Billing Policies (frequency, payment practices, interest on over-collections, late payments, etc.) set by Commission

# Dispute Resolution

- The State offers dispute resolution services
- Players
  - Complainants
    - Customers
    - Utilities
    - Competitors
    - Interest Groups
  - Problem Solvers
    - State Commission
    - Consumer Protection Board
    - Attorney General
    - Better Business Bureau
    - Courts

# Dispute Resolution (cont.)

- Contract/Disclosure

Customers <-----> Competitors

|

| Tariffs

|

|

Utilities <-----|

|

Tariffs/Operating  
Agreement

|

# Dispute Resolution (cont.)

- Processes
  - Informal
  - Formal
    - Alternate Dispute Resolution
      - Binding and Non-binding Arbitration
    - Litigation

# Dispute Resolution (cont.)

- Role of Commission
  - Receives Inquiries, Opinions, Complaints
  - Through Letters, Web, Telephone, Walk-in
  - Types of Complaints
    - Service
      - Connection/Disconnection
      - Outages/Reliability
      - Ongoing Service problems
      - Billing
      - High Bills
      - Incorrect Service Classification
      - Back Billing
    - Slamming/Cramming
    - Executive Complaints
      - -From Lawmakers, Other dignitaries, from those unhappy with initial Commission staff determination
      - Head of PUC reviews these complaints

# Dispute Resolution (cont.)

- Commission Process (Tariff based)
  - Customer service representative addresses customer concern
  - If customer/utility unhappy, they can ask for an informal hearing from another customer rep
  - If still unhappy with the outcome, they can ask for Commission formal hearing
  - If unhappy with Commission determination, can sue in the Courts

# Dispute Resolution (cont.)

- Consumer Protections
  - As long as bill is under dispute, customer does not have to pay and service will not be disconnected
  - Limitations on utility back billing
  - Commission staff can order utilities to keep service of customer from being terminated
  - Utilities typically cannot ask for deposit at service initiation

# Dispute Resolution (cont.)

- Consumer Protections
  - As long as bill is under dispute, customer does not have to pay and service will not be disconnected
  - Limitations on utility back billing
  - Commission staff can order utilities to keep service of customer from being terminated
  - Utilities typically cannot ask for deposit at service initiation

# Dispute Resolution (cont.)

- Complaints based on private contracts
  - Commission role limited, offers mediation in certain circumstances
  - Parties have to follow the terms of the contracts, which may call for arbitration by a neutral party
  - Ultimately courts are the final arbiters

# Dispute Resolution (cont.)

- Commission Role
  - The PUC is monitoring the behavior of the competing entities, should there be violations of regulations, Commission orders, Commission will take action
- Role of Other players
  - Where Commission does not have jurisdiction, AG picks up the arbiter role

# Summary

- The NYS PSC is responsible for the provision of safe and reliable service at just and reasonable rates, without unjust discrimination.
- The rights and responsibilities of consumers and utilities stem from legislative measures in the NYS PSL and other statutes, as well as the NYS PSC's regulations, orders, and opinions.
- The Department of Public Service addresses the complaints between consumers and utilities and these complaints can sometimes be appealed to the NYS PSC for final resolution.

# Resources

- The NYS PSL is available free online at:  
<http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>
- More information regarding PSC regulations, orders, and opinions are available here:  
<http://www.dps.state.ny.us/>
- The NYS PSC consumer assistance web site is:  
[http://www.dps.state.ny.us/New\\_consumer\\_assist.html](http://www.dps.state.ny.us/New_consumer_assist.html)
- NYS consumer complaint statistic reports, each including an explanation of the complaint NYS PSC procedure, are available here:  
[http://www.dps.state.ny.us/ocs\\_stats.html](http://www.dps.state.ny.us/ocs_stats.html)