

## **Electric and Natural Gas Service Settlement Agreement Residential Customers**

Taken from CONSUMER STANDARDS AND BILLING PRACTICES  
FOR ELECTRIC AND GAS RESIDENTIAL SERVICE  
R 460.2101 - R 460.2199:

### PART 10. DISPUTED CLAIM, HEARING AND SETTLEMENT AGREEMENT

#### R 460.151 Disputed claim.

Rule 51. (1) If a customer advises a utility, or if the utility is notified by a regulation officer on behalf of a customer, before the date of the proposed shutoff of service that all or part of a bill is in dispute, then the utility shall do all of the following:

- (a) Immediately record the date, time, and place the customer made the complaint and transmit verification to the customer.
- (b) Investigate the dispute promptly and completely.
- (c) Advise the customer of the results of the investigation.
- (d) Attempt to resolve the dispute informally in a manner that is satisfactory to both parties.
- (e) Provide the opportunity for the customer to settle the disputed claim or to satisfy any liability that is not in dispute.

(2) A customer may advise a utility that a claim is in dispute in any reasonable manner, such as by written notice, in person, by a telephone call directed to the utility, or through a regulation officer.

(3) A utility, in attempting to resolve the dispute, may employ telephone communication, personal meetings, on-site visits, or any other method that is reasonably conducive to obtaining a settlement.

History: 2007 MR 20, Eff. Oct. 26, 2007.

#### R 460.152 Utility hearing and hearing officers.

Rule 52. (1) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for an informal hearing before a hearing officer selected from a list of hearing officers filed with the commission.

(2) If the customer chooses to have an informal hearing, the customer shall do both of the following:

(a) Notify the utility within 5 business days of the utility offer for a hearing.

(b) Pay the amount not in dispute or if the utility and customer cannot agree, pay 50% of the disputed amount not to exceed \$100.

(3) If the customer notifies the utility of the intent to pursue an informal hearing, then the utility shall do both of the following:

(a) Complete the necessary investigation.

(b) Schedule the hearing within 10 business days.

(c) Hold the hearing within 30 business days of the customer's request for a hearing.

(4) If the customer fails to pay the part of the bill that is determined under subrule (2)(b) of this rule within 10 business days of the date that the utility sends the hearing notice, the utility may exercise its right to shut off service pursuant to these rules.

(5) A utility shall select hearing officers on the basis of all of the following:

- (a) They are on the list of hearing officers on file with the commission.
- (b) They shall be notaries public qualified to administer oaths.
- (c) They shall not be engaged in any other activities for or on behalf of the utility.
- (d) They shall comply with part 10 of these rules.

(7) If the dispute is ultimately resolved in favor of the customer, in whole or in part, the utility shall return promptly any excess amount paid by the customer, with interest at the rate specified pursuant to the provisions of R 460.111(7).

History: 2007 MR 20, Eff. Oct. 26, 2007.

#### R 460.153 Notice of hearing.

Rule 53. (1) The utility shall send or personally serve the customer with written notice of the time, date, and place of the hearing on the day scheduling is determined.

(2) The notice shall describe the hearing procedures as contained in these rules.

(3) Notice shall include amount of required payment and due date of 10 business days from the date of notice.

History: 2007 MR 20, Eff. Oct. 26, 2007.

#### R 460.154 Hearing procedures.

Rule 54. (1) A utility shall establish hearing procedures that, at a minimum, shall be subject to investigation and review by the commission to ensure the impartiality and integrity of the hearing process and that provide the customer and the utility with all of the following rights:

(a) The right to represent themselves, to be represented by counsel, or to be assisted by persons of their choice.

(b) The right to examine, not less than 2 business days before a scheduled hearing, a list of all witnesses who will testify and all documents, records, files, account data, and similar material that may be relevant to the issues to be raised at the hearing.

(c) The right to present evidence, testimony, and oral and written argument.

(d) The right to question witnesses appearing on behalf of the other party.

(2) A hearing shall be held during normal business hours. A utility shall take reasonable steps to ensure that a customer who is unable to attend a hearing due to physical incapacity is not denied the right to a hearing. Failure of the customer, or the utility, to attend the hearing without a good reason, or without having requested an adjournment, constitutes a waiver of the right of that party to the hearing.

(3) The utility has the burden of proof by a preponderance of the evidence.

(4) All witnesses who appear for either party shall testify under oath.

(5) A hearing shall be informal and the proceedings need not be recorded or transcribed. All relevant evidence shall be received and the formal rules of evidence shall not apply.

(6) For each hearing, the hearing officer shall compile a record that contains all of the following:

- (a) A concise statement, in writing, of the position of the utility.
- (b) A concise statement, in writing, of the position of the customer. If

the customer has not put his or her position in writing, then the hearing process shall provide a method for accomplishing this writing with the opportunity for proper acknowledgment by the customer.

(c) Copies of all evidence submitted by the parties.

(7) At the conclusion of the hearing, the hearing officer may orally state his or her findings, the decision, or adjourn the hearing and inform the parties that the decision will be transmitted within 7 business days. At the request of the customer, the hearing officer shall adjourn the hearing and transmit the decision within 7 business days. In all cases, the hearing officer shall issue a complaint determination in a form that is approved by the commission. The complaint determination shall contain both of the following:

(a) A concise summary of the evidence and arguments presented by the parties.

(b) The decision, and the reasons for the decision, of the hearing officer based solely upon the evidence received.

(8) At the conclusion of the hearing and again upon issuance of the complaint determination, the hearing officer shall advise the customer and the utility of all of the following:

(a) That each party has a right to make an informal appeal to the commission staff, by mail, telephone, internet, fax, or in person, within 7 business days of issuance of the complaint determination.

(b) That, if appealed, the decision of the hearing officer, including a finding that service may be shut off, cannot be implemented until a review by the commission staff is completed.

(c) The address and telephone number where the customer or the utility may make an informal appeal to the commission staff.

(9) Before issuance of a complaint determination, the hearing officer may propose a settlement to the parties. If both parties accept the settlement, it shall be put in writing and signed by both parties.

(10) Within 7 business days of the conclusion of the hearing, the hearing officer shall serve the parties with all of the following:

(a) A copy of the complaint determination.

(b) Appeal information as provided in subrule (8) of this rule.

(c) If applicable, a copy of the signed settlement agreement.

(11) The complaint determination and a copy of the signed settlement agreement, if any, shall be made part of the hearing record. The hearing officer shall certify the hearing record.

(12) The complaint determination is binding upon the parties, unless appealed, as provided in these rules.

History: 2007 MR 20, Eff. Oct. 26, 2007.

#### R 460.155 Settlement agreement.

Rule 55. (1) If the utility and the customer arrive at a mutually satisfactory settlement of a claim in dispute or if the customer does not dispute liability to the utility, but claims the inability to pay the outstanding bill in full, then a utility shall offer the customer the opportunity to enter into a settlement agreement.

(2) The utility shall confirm the terms of the settlement agreement with the customer and shall send a signed copy of the settlement to the customer or the customer's authorized representative. The utility shall retain documentation of the original settlement agreement for 2 years. In case of a dispute over the terms of a settlement agreement, the utility shall have the burden of proving that the customer understood and accepted the terms of the

settlement agreement.

(3) In negotiating a settlement agreement due to the customer's inability to pay an outstanding bill in full, the utility shall not require the customer to pay more than a reasonable amount of the outstanding bill upon signing the agreement and not more than reasonable installments until the remaining balance is paid.

(4) For purposes of determining reasonableness, the parties shall consider all of the following factors:

- (a) The size of the delinquent account.
- (b) The customer's ability to pay.
- (c) The time that the debt has been outstanding.
- (d) The reasons that the customer has not paid the bill.
- (e) The customer's payment history.
- (f) Any other relevant factors concerning the circumstances of the customer.

(5) A settlement agreement that is offered by a utility shall state, immediately preceding the space provided for the customer's signature and in bold print that is not less than 2 sizes larger than any other print that is used on the form:

"IF YOU ARE SEEKING PAYMENT ASSISTANCE FROM A SOCIAL SERVICE AGENCY, SIGNING THIS AGREEMENT MAY PREVENT YOU FROM GETTING EMERGENCY ASSISTANCE. LET US KNOW IF YOU ARE WORKING WITH AN AGENCY. IF YOU ARE NOT SATISFIED WITH THIS AGREEMENT, DO NOT SIGN. YOU MAY FILE AN INFORMAL COMPLAINT AND HAVE A HEARING BEFORE A HEARING OFFICER BEFORE YOUR SERVICE MAY BE SHUT OFF. IF YOU DO SIGN THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO AN INFORMAL HEARING BEFORE A HEARING OFFICER ON ANY MATTER INVOLVED IN THIS DISPUTE EXCEPT THE UTILITY'S FAILURE OR REFUSAL TO FOLLOW THE TERMS OF THIS AGREEMENT. IF YOU HAVE AN UNEXPECTED LOSS OR REDUCTION OF INCOME AFTER THIS AGREEMENT IS SIGNED, YOU MAY REQUEST A REVIEW AND MODIFICATION OF THIS AGREEMENT"

History: 2007 MR 20, Eff. Oct. 26, 2007.

R 460.156 Default of settlement agreement.

Rule 56.(1) If a customer fails to comply with the terms and conditions of a settlement agreement, a utility may shut off service after giving the customer a notice, by personal service or first-class mail, that contains all of the following information:

- (a) That the customer is in default of the settlement agreement.
- (b) The nature of the default.
- (c) That unless the customer pays in full within 10 business days of the date of mailing, the utility may shut off service.
- (d) The date on or after which the utility may shut off service.
- (e) That the customer has a right to request a hearing before a hearing officer selected from a list on file with the commission, only if the customer alleges that the utility has failed or refused to follow the terms of the settlement agreement.
- (f) The address and telephone number where the customer may file the

request for a hearing with the utility.

(2) A utility is not required to enter into a subsequent settlement agreement with a customer until he or she has complied fully with the terms of a previous settlement agreement, unless the customer demonstrates a significant change in economic circumstances and requests a modification of the settlement agreement as provided by R 460.155(5).

(3) A utility is not required to enter into a subsequent settlement agreement with a customer who defaulted on the terms and conditions of an agreement within the last 12 months.

(4) If the customer and utility reach a settlement agreement following a notice of shutoff, the failure of the customer to abide by the terms of the settlement agreement during the first 60 days of the agreement constitutes a waiver of the notice required by subrule (1) of this rule. The utility may shut off service after notice as described in the provisions of R 460.138, R 460.139, or R 460.142, if applicable.

History: 2007 MR 20, Eff. Oct. 26, 2007.

R 460.157 Same dispute.

Rule 57. A utility may choose not to respond to a customer complaint or dispute that involves the same question or issue based upon the same facts, and is not required to comply with these rules more than once before shutoff of service. The utility shall provide notice to the customer that the complaint has been dismissed under this rule.

History: 2007 MR 20, Eff. Oct. 26, 2007.