
BOSTON WATER AND SEWER COMMISSION



**BILLING, TERMINATION
AND
APPEAL REGULATIONS**

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CHAPTER 1
DEFINITIONS AND GENERAL PROVISIONS

1.1 Authority to Adopt Rules and Regulations

These Regulations are adopted pursuant to the authority granted the Commission under Chapter 436 of the Acts of 1977 and Chapter 40N of the General Laws (the Model Water and Sewer Act).

1.2 Application; Non-exclusivity of the Commission's Remedies

These Regulations shall apply to all billing and collection of charges for water and sewer service, to termination of service for nonpayment of the same, to termination of service for reasons other than non-payment and to appeals from such terminations. Nothing in these Regulations shall be construed to limit or infringe upon the right of the Commission to pursue any other remedies available under the Act or under other applicable law for the collection and enforcement of charges for water and sewer service.

1.3 Review of Materials and Notices by Community Services Officer

The Commission's Executive Director may and the Community Services Officer shall review the form of all printed materials and notices required under these Regulations. Where appropriate, the Community Services Officer may require that the Commission provide notices in languages other than English that are primary languages of substantial numbers of the Commission's customers.

1.4 Changes in the Commission's Address and Telephone Numbers, Departments and Divisions

In the event that the Commission's address, telephone numbers, departments or divisions change, the Executive Director of the Commission is authorized to confirm all addresses, telephone numbers, departments and divisions in these Regulations and to publish the confirmed regulations. This section shall not be interpreted to authorize the Executive Director to make any alterations to these Regulations other than to addresses, telephone numbers, departments and divisions.

1.5 Definitions

Act means the Boston Water and Sewer Reorganization Act, Acts of 1977, Chapter 436, of the Commonwealth of Massachusetts.

Amount in Dispute, when used in reference to charges as defined in this section means an amount of a bill that relates to the proper application of approved rates that is claimed by a customer to be unsubstantiated.

Automated Meter Reading (AMR) shall mean a method by which a water meter is read without having to enter a premise.

Bill means an electronic or written statement issued by the Commission to a customer, in which is set forth the actual or estimated amount of water consumed through the period stated on the bill, all charges (as defined in this section) due for water and sewer service during such period, and such additional information as may be required under these Regulations.

Billing Address shall mean the address which the Commission uses for the mailing of all official notices including, but not limited to, billing statements.

Charges mean all fees, rates, rents, assessments and other charges for water, sewer, drainage or other services, facilities and commodities which are furnished or supplied by the Commission and which it is authorized under the Act to fix, revise, charge and collect.

Commission means the Boston Water and Sewer Commission.

Customer shall mean the owner of the premises or a residential tenant.

Delinquent Account shall mean an account for which the Commission has not received payment from the customer within 45 days of the billing date.

Final Notice and Demand is a document informing the customer that the customer's water service has been scheduled for termination.

Owner means a person or persons who has legal title to any premises and is responsible for payment of water and sewer services.

Premises means the address of the property to which the Commission supplies water, sewer and other services.

Residential building means a building containing one or more dwelling units occupied by one or more residential tenants, but excluding condominiums, cooperatives, nursing homes, hotels and motels.

Residential tenant means a person or group of persons, other than an owner, occupying a residential building, as a lessee or a tenant at will or a tenant at sufferance, a dwelling unit in a building for residential purposes and receiving water and sewer service pursuant to a rental arrangement, direct or indirect, with the owner of the building.

SmartRead means the Commission's wireless automated meter reading (AMR) system consisting of a water meter, a meter transmission unit (MTU), a data collector unit (DCU) and a network control computer used for the collection and transmission of water meter readings by radio frequency from a customer's premises to the Commission.

Special examiner means an attorney appointed by the Commission to hear cases.

Tax Title shall mean the process in which a property is taken by the Commission for unpaid water and sewer charges.

Termination shall mean the cessation of water service pursuant to the Commission's Billing, Termination and Appeal Regulations or for a violation of Commission Water and Sewer Use Regulations.

Turn-on fee shall mean the charge approved by the Commission for the restoration of water service after termination which it is authorized under the Act to collect.

Water and sewer service means water, sewer and other services, facilities and commodities furnished or supplied by the Commission pursuant to the Act.

Water meter means an instrument or device, including any appurtenances thereto, for measuring the flow of water.

CHAPTER 2

METERING, BILLING AND PAYMENT PROCEDURES

2.1 Meter Readings

Actual readings of the official Commission water meter for each account will be collected and transmitted to the Commission through the *SmartRead* automated meter reading system up to four times per day. The Commission, at its sole discretion, reserves the right to change the frequency of the daily meter readings.

If an actual meter reading is not obtained through *SmartRead* for reasons beyond its control, the Commission shall notify the customer that the Commission must gain access to the premises to repair and/or replace the meter, remote reading device or any appurtenances thereto. The failure of the customer to permit access under this section shall be cause for termination of service as provided under these regulations.

The Commission shall notify the customer in writing that the current bill is based on an estimate.

The Commission shall not take readings of privately owned water meters at any time. Seasonal accounts and sewer abatement meters shall be read on a schedule determined by the Commission.

2.2 Billing

Monthly Bills

The Commission will issue monthly bills to its customers.

When due

All bills shall be due and payable within thirty (30) days of the billing date. Bills not paid within forty five (45) days of the billing date will be subject to delinquency charges under applicable law or these Regulations.

Payments; Application to Charges

A customer may make payments by mail, electronically or in person at the Commission's designated collection sites or its main office. A customer may designate the account or accounts to which a payment will be applied. When a customer with more than one account fails to designate the account to which a payment is to be applied, the Commission shall credit the payment first to the account with the largest past due balance. When a payment is insufficient to cover all current charges, the

Commission shall apply the payment to those charges in the following order:

- water charges
- sewer charges
- delinquency charges
- other charges

Payment to Avoid Termination

In order to forestall termination of service to a delinquent account, payment following the issuance of a Final Notice and Demand shall be made either in cash or by a certified or a bank cashier's check. A person making a payment in person to forestall termination shall be referred to a designated Commission representative. Upon receipt of payment, the designated Commission representative shall issue a stop termination order, enter the order on the Commission's computer system, and present the individual with a receipt.

Payment after Termination

A customer seeking restoration of water service after termination due to the customer's non-payment of charges must pay the arrearages on the account as well as a water service turn-on fee. Payment must be in cash or by a certified or bank cashier's check. Customers may make arrangements with the Commission to pay the arrearages over time.

Collection Agreements

A customer who cannot pay the full amount due the Commission for charges may be permitted to enter into a collection agreement with the Commission. Customers shall be required to sign the agreement which will be furnished by the Commission. The agreement will detail all the conditions that are required to stay termination. Failure to adhere to the collection agreement will result in termination of the customer's water service pursuant to these regulations.

Tax Title Process

Once charges are six months overdue, the Commission may issue a Demand on the owner to pay. If the charges are not paid within 14 days of the Demand, the Commission shall give Notice of Intent to Take the property. If the charges still remain unpaid as of the date set for the Taking in the Notice, the Commission shall take the property and file the Instrument of Taking in the Registry of Deeds within 60 days of the taking. Once an account is in Taking, all new charges added to the account are considered to be in Taking. Interest charged to the account will be at the Demand rate or the Taking rate in accordance with applicable law.

Accounts in the Tax Title Process are subject to termination of service as provided in these Regulations.

Refunds; Application of Credit Balances

In the event that a customer overpays a bill or for some reason has a credit balance on an account, he or she may obtain upon request a refund from the Commission. The customer may elect to have an overpayment or credit balance applied to a future bill. If a customer does not otherwise instruct, the Commission shall apply a credit balance to the next bill for the account and to successive bills until it is used up. If the customer has more than one account, the Commission shall apply the remainder of the credit balance to the account with the largest past due balance.

Disputed Charges

That portion of a bill in dispute shall not be considered due during the pendency of any complaint, investigation, hearing or appeal under these Regulations. The portion not in dispute shall be due and payable to the Commission and subject to delinquency charges pursuant to these Regulations.

Appeals Process, Disputed Charges

Thirty (30) days subsequent to a final determination of the disputed amount delinquency charges will be incurred on any unpaid charges. The Commission shall abate delinquency charges accrued during the hearing process and any subsequent judicial review on disputed amounts ultimately held not to be due it from a customer.

Notice at Cashier's Window

The Commission shall post at its cashier's window a conspicuous notice informing customers and tenants that payments to avoid termination of service shall be made either in cash or by a certified or a bank cashier's check to a designated Commission representative.

2.3 Billing Information

The Face of the Paper Bill

The face of every paper bill rendered by the Commission to a customer shall include, but not be limited to the following information:

- beginning and ending dates of current billing period;
- whether actual or estimated reading;
- the amount of the current water and sewer charges;
- number of days between billing periods;
- the total current charge;

- the amount of all charges remaining unpaid or unadjusted from the previous bill, labeled "Previous Balance";
- the amount of all payments made and credits to the account since the prior bill, labeled "Payments and Adjustments";
- a statement of the current delinquency charges due on past balances;
- the amounts due for betterments or assessments;
- the actual or estimated meter reading;
- the date of the next meter reading;
- total amount due.

The Reverse of the Paper Bill

The reverse of a paper bill rendered by the Commission shall include the following:

- information on estimated bills
- information on how to dispute your bill
- information regarding water service during serious illness
- a statement that water service may be terminated if past amounts remain unpaid;
- a statement of the rates
- a statement that a delinquency charge will be added for any amount not paid within 45 days after the billing date shown on the front of this bill. That charge is calculated at the daily rate of, which is equal to an annual percentage rate of _____
- a statement that fines may be imposed for tampering with a water meter or any appurtenances thereto.

Electronic Bill

Electronic bills shall include access to all of the information provided on the paper bill in a modified format.

2.4 Installation and Replacement of Meters and Remote Reading Devices

The Commission maintains a program for the replacement of broken or missing water meters and remote reading devices. The Commission reserves the right to repair or replace any meter at its sole discretion. The Regulations Governing the Use of the Water Distribution Facilities of the Commission describe that program.

In the event that a water meter or any appurtenance thereto has been determined to have been tampered with, the Commission shall repair or replace said meter and/or appurtenance and may bill the customer for the cost to the Commission for such repair or replacement. A fine may be

levied pursuant to the Regulations Governing the Use of the Water Distribution Facilities of the Commission for tampering with a water meter or any appurtenance thereto.

The Commission's bills shall bear a notice printed in capital letters listing a telephone number customers may call to request the replacement of a meter.

2.5 Meter Testing

The Commission shall provide meter tests upon request. The Commission may charge a standard fee as provided in the Commission's Rate Schedule for this service and bill the fee to the customer's account. All meter testing will be in accordance with the Regulations Governing the Use of the Water Distribution Facilities of the Commission.

Replaced Meters

When the Commission removes a meter other than at a customer's request, it shall notify the customer of the right to have the removed meter tested.

Notice

At the time of replacement and removal of a meter, an employee of the Commission shall leave a notification card in the principal entry to the account premises. The notification card shall describe when and how the customer may request testing. The customer shall have not less than ten (10) days after delivery of the notification card to request testing.

Retention of Removed Meters

The Commission shall retain meters removed other than at a customer's request until the time for requesting meter testing has expired.

Settings on New Meters

The Commission shall set the reading on all newly installed meters as close to zero as possible.

Notice of Replaced Meter's Reading and Testing

Within one (1) week of the installation of a new meter, the Commission shall mail the customer a notice stating the actual reading of the replaced meter at the time of replacement and of the results of any test of that

meter. The notice shall also state that it relates to the customer's upcoming bill from the Commission and that the customer should retain it.

Notice to Customers Requesting Investigation or Hearing

Each customer who requests an investigation of a bill or who enters the hearing process shall receive a written notice of the right to have the account meter tested. This notice shall also state that a special examiner may abate the meter test fee upon proof of either a customer's indigence or a hardship the fee would impose on the customer.

Reports; Retests; Presence at Tests

The Commission shall promptly record the results of meter tests and report them to the customer. The report shall state the degree of meter accuracy at three (3) rates of flow. The report of the test results shall contain a notice to the customer that the Commission will retest the meter upon request and payment in advance of the Commission's standard meter test fee. Upon signing a release, a customer or a customer's authorized representative may attend a meter test performed by the Commission.

Retention of Tested Meters

The Commission shall retain a tested meter for sixty (60) days after the test. When a customer whose meter has been tested invokes the hearing process or seeks judicial review of the Commission's determination, the Commission shall retain the meter at issue until all such proceedings have terminated and the time for appeals has run.

Production of Tested Meters

At a customer's request, the Commission shall make the replaced meter available at a hearing before the special examiner. Except for reasons beyond its control, if the Commission fails to retain the meter or to produce the meter upon request, the special examiner shall abate the disputed charges.

Abatement of Fees and Charges

If either the initial test or a retest reveals that the tested meter was over-recording by more than 1.5 percent, the Commission, at the customer's request, shall either credit against the next bill or abate and refund all meter test fees. When a meter test or retest reveals a meter to have been over-recording, the Commission shall abate charges recorded by that

meter in proportion to the rate of over-recording. The Commission may further abate the amount of the charges by any other amount it believes justified. The abatement shall include delinquency charges, if any, attributable to the overcharge. If a test or retest reveals that a meter was functioning but under-recording, the Commission shall not impose any additional charges on the account.

Independent Meter Test

A customer requesting an independent meter test is responsible for all costs and expenses associated with the test. A Commission employee shall deliver the meter to the test location and the customer shall be responsible for all costs and expenses in connection with the delivery by the Commission of the meter to the test location.

2.6 Annual notice

The Commission shall mail to each customer at least annually and to each new customer when an account is opened a notice which explains, among other things: the Commission's meter testing policies; the purpose of meter readings; when estimated meter readings are used and how they are computed; why actual meter readings are preferable to estimates; the procedures for requesting installation of a meter or a remote reading device; the availability of refunds of credit balances on accounts; the procedures for working out payment plans if a customer has difficulty paying his or her bills; when the Commission may terminate water service to an account premises; and the procedures for disputing a bill.

At least annually, the Commission shall publish a summary of the information contained in this notice in a newspaper of general circulation in the City of Boston, in The Bay State Banner, La Semana, Sampan Newspaper, South End News and other local newspapers.

CHAPTER 3

THE TERMINATION OF WATER SERVICE FOR NONPAYMENT OF BILLS

3.1 Conditions to be Met Prior to Termination

Except as otherwise provided in these Regulations, the Commission may terminate service for nonpayment as follows:

Unpaid Bill

An amount in tax title or as shown as due on a bill remains unpaid for more than 45 days after the due date, or such longer periods as may be permitted by a payment plan;

Final Notice and Demand

At least sixty (60) days after the due date of the bill the Commission shall:

1. send by first class mail postage pre-paid and certified mail a Final Notice and Demand to the owner addressed to the premises scheduled for termination and to the owner at the address as shown on the records of the assessor of the City of Boston;
2. mail to the owner at the billing address as shown on Commission records
3. post on the premises, a Final Notice and Demand.

Termination Date

The date of termination shall not be scheduled for earlier than 15 days from the date of posting and mailing of the Final Notice and Demand.

Final Check

The Commission will check at the close of business on the last business day before the date on which service is scheduled to be terminated that:

1. the Commission has sent and/or posted the notices required by the Act and these Regulations,

2. no payment has been made on the account sufficient to justify halting termination,
3. the account is not in the Commission's hearing process and/or an appeal has been filed in court.
4. the account is otherwise not subject to termination; or
5. if the account is in the hearing process, the customer has not complied with the special examiner's order as to payment of the amount not reasonably in dispute.

3.2 Minimum Amount Past Due for Termination of Service

In no event shall service to a customer be terminated for failure to pay a delinquent account amounting to less than \$250.00.

3.3 Termination When Amounts Are in Dispute

Water service shall not be terminated for failure to pay a charge, the amount of which is the subject of a pending appeal under these Regulations. However, the customer shall be responsible for the payment of any portion of any bill that is not in dispute, and service may be terminated for failure to pay that portion of a bill.

3.4 Termination for Illegal Taking of Water/Emergencies

Nothing in this Chapter shall be construed to prevent termination for the illegal taking of water or for reasons including but not limited to emergencies of public safety, public health, and/or in cooperation with civil authorities or any other reason for which the power to terminate service is specifically granted by the Act or by the General Laws.

3.5 Time When Termination May Be Effected

Termination of service for failure to pay a delinquent account may be effected only between the hours of eight in the forenoon and four in the afternoon, Monday through Thursday provided that such day is not a holiday as defined under Section 7 of Chapter 4, of the General Laws, or the day before such a holiday.

CHAPTER 4

TERMINATION OF SERVICE TO CUSTOMERS DURING SERIOUS ILLNESS

For purposes of this section, a serious illness will be limited to those conditions that involve a sickness or disease that requires the continuous supervision of a health care provider or one for which water service is essential for the operation of medical equipment. Conditions including but not limited to colds, flu, broken bones, or other temporary incapacity or injury will not be considered a serious illness to stay termination of service.

4.1 Eligibility

A customer seeking to stay termination of the customer's water service or a resumption of water service terminated for non-payment due to a serious illness may be eligible if:

1. the customer or direct family member is seriously ill as certified to the Commission by a registered physician or local board of health; and
2. the customer certifies that a financial hardship exists; and
3. the customer resides at the premises scheduled for termination of service.

4.2 Serious Illness Certificate

A certification of serious illness shall be sufficient if initially made by telephone. Upon receiving telephone notification, the Commission shall inform the customer that a written certificate setting forth the medical information required in this section must be forwarded by the registered physician or local board of health to the Commission within seven (7) days. The customer must also forward within seven (7) days a Certification of Financial Hardship. All certifications, whether by telephone or in writing, must provide the name and address of the seriously ill person, the nature of the illness, and the office address and telephone number of the certifying physician or local board of health. At its discretion, the Commission may require additional documentation from the customer.

4.3 Renewal of Certificate of Illness

In cases where service is continued or restored pursuant to a serious illness certificate, the customer or direct family member shall renew the

medical certificate monthly (every thirty (30) days), with the first renewal due one (1) month after the initial certification. However, if the illness is certified to be chronic, the Commission may direct that the renewal of the certificate shall be made quarterly (every ninety (90) days). In either case, each application for renewal must be accompanied by the Certification of Financial Hardship that demonstrates that the customer is unable to pay the charges due to the Commission. Each renewal certificate shall be forwarded to the Commission. As a condition for the renewal of a certification of serious illness, the Commission may require that the customer or direct family member be examined by a physician designated by it. In that event, the Commission shall bear the expense of the examination.

4.4 Financial Hardship Certification

The customer must complete a Financial Hardship Certification on a form provided by the Commission and submit the required documentation. The Certificate and documentation must demonstrate that the customer is unable to pay the charges due the Commission. At its discretion, the Commission may require additional documentation of the existence of a financial hardship. When it deems necessary, the Commission may conduct an independent investigation of the financial situation of a person applying for relief under this section and require that person to authorize the Commission to examine his/her financial records. Failure to comply with a request by the Commission for access to such records shall be grounds for the denial of an application for relief or for the denial of a renewal of a certificate.

4.5 Denial of Application to Renew Certificate; Appeal

In the event that the Commission denies an application or a renewal under this section, that denial may be appealed under the provisions of these Regulations.

4.6 Charges Due in Full

At the time at which the serious illness and/or financial hardship are no longer present, all bills and charges will be due to the Commission.

4.7 Non-Compliance; Termination

Service to any customer may be terminated for failure of a customer to comply with the provisions of this Section.

CHAPTER 5

TERMINATION OF SERVICE TO ACCOUNTS AFFECTING TENANTS AND ELDERLY PERSONS

5.1 Tenants

Eligibility

A residential tenant may seek to stay termination of water service or a resumption of water service terminated for non-payment if:

1. the Commission receives from a residential tenant proof that he/she is a residential tenant in the affected building; and
2. cash or a certified or bank check sufficient to cover both the water turn-on fee (if service has been terminated) and a projected bill for service to the residential building for a thirty (30) day period is received by the Commission.

5.2 Elderly

Eligibility

An elderly customer may seek to stay termination of water service or a resumption of water service terminated for non-payment if:

1. all members of the customer premises are 65 years of age or older; and
2. the customer demonstrates that a financial hardship exists as described in Article 4.4 of these Regulations; and
3. the customer resides at the premises scheduled for termination of service.

Third Party Notification

At the request of a customer who resides at a premises of which all residents are 65 years of age or older, the Commission shall provide to a third person designated by such customer, notification of all past due bills, termination and hearing notices. In no event shall this third person be liable for the account of the customer.

5.3 Denial of Application to Renew Certificate; Appeal

In the event that the Commission denies an application or a renewal under section 5.2, that denial may be appealed under the provisions of these Regulations.

5.4 Non-Compliance; Termination

Service to any customer may be terminated for failure of a customer to comply with the provisions of this Section.

CHAPTER 6

PROCEDURES FOR TERMINATION OF WATER SERVICE FOR REASONS OTHER THAN NON-PAYMENT OF BILL

6.1 Application

This Chapter applies to cases in which the Commission has discovered the existence of any condition identified in the Regulations Governing the Use of the Water Distribution Facilities (Water Use Regulations) and the Regulations Governing the Use of the Sanitary and Combined Sewers and Storm Drains (Sewer Use Regulations) of the Commission as a violation of said Regulations that may be grounds for termination of the customer's water service.

6.2 Non-Exclusivity of Remedies

Nothing in this Chapter shall be construed to limit or infringe upon the right of the Commission to:

1. make, without prior notice, such temporary interruptions in water and sewer service as it deems necessary on a routine or emergency basis for restoration, repair or replacement of the water works system and the sewer works system as defined in the Act and the Water and Sewer Use Regulations; or
2. pursue its remedies for the unauthorized use or diversion of water or for damage to the Commission's property under other regulations promulgated by the Commission, the Act or other applicable laws.

6.3 Initial Notification and Inspection

When a condition identified as a violation of Commission Regulations exists on a customer's premises, the Commission shall notify the customer that the condition must be corrected within fifteen (15) days of the date of said notice or such shorter period of time as the Commission in its sole discretion deems necessary. The notice shall also include a telephone number the customer must call to notify the Commission that the condition has been corrected. Upon notification from the customer that the condition has been remedied, the Commission will inspect the premises to verify the correction.

6.4 Final Notice and Demand

If the Commission is either not notified by the customer within the time required, or after an inspection determines that the condition has not been corrected or is denied access or is unable, after reasonable efforts, to secure access to the premises, the Commission shall:

1. send by first class mail postage pre-paid and certified mail to the billing address as shown on the records of the Commission; and
2. post on the premises,

a Final Notice and Demand that if the condition is not corrected within ten (10) days the Commission shall terminate water service.

To stay termination under this section the customer must call to notify the Commission that the condition has been corrected within this ten (10) day period. Upon receipt of notification from the customer that the condition has been remedied, the Commission may, at its sole discretion, perform an inspection to verify that the correction has been made.

6.5 Customer Plumbing Emergency Notices

Notwithstanding, any other provisions of these regulations, in the event of a customer plumbing emergency, the Commission shall be required to give only such notice prior to termination as it deems practical.

6.6 Leak Up to Owner (LUTO)

When a leak up to owner (LUTO) exists on an owner's portion of a water service pipe or fire pipe, as defined in the Commission's Water Use Regulations, the Commission shall notify the customer of said condition. The notice shall inform the customer that the condition must be corrected within fifteen (15) days of the date of said notice or such shorter period of time as the Commission, in its sole discretion, deems necessary. The notice shall also require that the customer provide, to the satisfaction of the Commission, a paid receipt showing repairs completed. Upon receipt of notification from the customer that the condition has been remedied, the Commission may, at its sole discretion, perform an inspection to verify that the correction has been made.

6.7 Final Notice and Demand

If the Commission is either not notified by the customer within the time required, or after an inspection determines that the condition has not been

corrected or either is denied access or is unable, after reasonable efforts, to secure access to the premises, the Commission shall:

1. send by first class mail postage pre-paid and certified mail to the billing address as shown on the records of the Commission; and
2. post on the premises,

a Final Notice and Demand that if the condition is not corrected within fifteen (15) days the Commission shall terminate service.

To stay termination under this section the customer must provide, to the satisfaction of the Commission, a paid receipt showing repairs completed within this fifteen (15) day period. Upon receipt of notification from the customer that the condition has been remedied, the Commission may, at its sole discretion, perform an inspection to verify that the correction has been made.

6.8 Appeal

The procedures described in Chapter 7 shall apply when a customer, who receives a notice under this section requires more time to cure the condition or disputes an allegation contained in it. These procedures shall also apply to any dispute arising out of the termination of service under this chapter. The customer's water service will not be turned on until the appeals process has been resolved or the Commission finds due reason to let on the service. Termination will not be stayed in cases involving a customer plumbing emergency or a condition that threatens public safety.

6.9 Rights of Tenants to Continued Service

The Commission may stay termination or resume service previously terminated if it receives from the tenants satisfactory assurances that the condition that requires termination will be corrected. Tenants shall be considered customers for the purposes of this chapter and shall be entitled to dispute any matter relating to a proposed termination in accordance with Chapter 7.

6.10 Resumption of Service

At any time following termination of service, upon receiving satisfactory proof that a condition that required termination has been corrected, service shall be restored to the account.

6.11 Emergencies

In the event that an emergency of public safety or public health exists, as determined by the Commission or other public authority, a customer's water and sewer service may be terminated without prior notice. The Commission will attempt to notify the customer as soon as possible of the conditions and reason for termination.

CHAPTER 7

DISPUTES AND APPEALS

7.1 Application

The procedures described in this Chapter shall apply to all bill disputes between a customer and the Commission, to terminations for non-payment, to violations of Commission regulations that may be grounds for termination and to terminations for a leak up to owner (LUTO).

As a requirement for participation in the hearing process, a customer disputing a bill must pay any undisputed charges due the Commission.

In the event the customer water service has already been terminated, the customer may appeal but the water service will not be restored until the appeals process has been resolved or the Commission finds due reason to restore the service.

7.2 Resolution Procedure

Billing Disputes

A customer requesting an adjustment review shall notify the Commission by telephone, mail or in person within 30 days of the billing date for which the dispute is claimed. The Commission shall notify the customer in writing of the result of the review and the right to request an informal conference with the Commission. A request for an informal conference must be made within 7 days of receiving the result of the adjustment review.

Reasons Other than Non-Payment

A customer requesting an investigation of a condition identified as a violation of Commission regulations or a leak up to owner (LUTO) shall notify the Commission by telephone, mail or in person within 5 days of receipt of the initial notification of the condition. The Commission shall notify the customer in writing of the result of the investigation and the right to request a hearing before a special examiner.

7.3 Appeals to Special Examiner

Time for Filing

a.) Billing Disputes: The Commission shall notify the customer in writing of the result of the informal conference and the right to appeal the decision.

The notice of appeal must be filed within 7 days of receiving the result of the conference and on a form prescribed and supplied by the Commission.

b.) Reasons Other than Non-Payment: A request for a hearing before a special examiner must be made within 5 days of receiving the result of the investigation and on a form prescribed and supplied by the Commission.

Hearing

The hearing shall be conducted by a Special Examiner who shall be a member in good standing of the Massachusetts Bar and not an employee of the Commission.

Order of Hearings

Except as otherwise provided in these Regulations, the Commission shall schedule hearings in the general order in which it receives requests for hearings. However, a customer selling an account premises and who disputes a bill on that account shall receive, upon request, an expedited hearing.

Absent a showing of good cause, a customer requesting a continuance twenty four hours or less before the scheduled hearing shall pay the fee of the special examiner.

Decisions

All final decisions on appeals heard by a special examiner shall be in writing and shall include a statement of reasons for, and a determination of each issue of law. A copy of the decision shall be served on all parties. The notice shall include a statement of the customer's right to appeal the decision within 14 days of receipt to the Board of Commissioners.

Burden of Proof

In a hearing before a special examiner on an appeal from any resolution of a customer dispute under these Regulations, the resolution shall be presumed to be correct. The burden to prove otherwise shall rest on the party challenging that resolution. When a party has requested a meter test or new meter, the results of the test or of the reading of the new meter shall in the absence of clear and convincing evidence to the contrary, be conclusive.

Procedure

The Special Examiner shall make all decisions regarding the admission or exclusion of evidence or any other procedural matters that arise during the hearing. If a party fails to appear for a hearing after due notice, the Special Examiner may dismiss the appeal or find against the party by default.

7.4 Request for New Meter

At the time a request for a hearing is filed, a customer may request that the Commission replace the account meter. The Commission may charge a standard fee as provided in the Commission's Rate Schedule for this service and bill the fee to the customer's account. If the account meter either is missing, or is obviously broken or inoperative, or has not been replaced during the five years preceding the request, the Commission shall replace the meter. Unless the customer otherwise requests, the Commission shall not schedule a hearing until two months after the meter is installed.

7.5 Meter-Reading before Hearing

The Commission shall make its best effort to obtain a reading from the new meter at least one week before the scheduled hearing and notify the customer of the usage recorded since installation of the new meter. At the hearing, the Commission shall present evidence of the meter reading and of the amount of water usage since installation.

Failure by the Commission to obtain a reading, or to notify the customer or the customer's non-receipt of the notice shall not be cause for a continuance of the hearing.

7.6 Discrepancies in Reading

If the customer has not received notice of the pre-hearing reading and if the reading and usage described by the Commission at the hearing differ from the customer's evidence concerning usage by an amount that cannot be reasonably accounted for by the lapse of time the customer shall be entitled to a continuance of one (1) week in order to attempt to resolve the difference. However, a customer who received notice of the pre-hearing reading one week or more before the hearing is not entitled to a continuance for this purpose.

In the absence of clear and convincing evidence to the contrary, the rate of usage recorded by the new meter shall be used at the hearing to determine the charges not reasonably in dispute.

7.7 Determination of Amount of Charges Reasonably in Dispute

Written Order

The special examiner shall make a determination of the amount of the charges reasonably in dispute and issue a written order requiring the party appealing to pay the amount of the charges found to be not reasonably in dispute to the Commission forthwith.

Method of Calculation

Except as otherwise provided in these regulations and in the absence of persuasive evidence as to the amount reasonably in dispute, the special examiner shall calculate the amount of the charges reasonably in dispute using the procedure adopted by the Commission for determining average daily use of water and sewer services.

Payment Schedule

Upon a showing that the customer is indigent or falls within the Commission's guidelines for determining hardship, the special examiner may establish a payment schedule for the amount not reasonably in dispute for a customer who occupies all or part of an account premises. A customer may prove indigence in any of the ways provided by Massachusetts General Laws Chapter 261, §27A. The payment schedule shall have a duration of not less than fifteen (15) days. If thereafter such a customer is unable to comply with the special examiner's payment schedule, he or she may seek an adjustment to the payment schedule from the Commission's Community Relations Officer.

Effect of Non-payment on Customer's Right of Appeal

The Commission may terminate service for failure to pay the amount of charges not reasonably in dispute.

7.8 Appeals to Board of Commissioners

A party aggrieved by the decision of a special examiner may file a notice of appeal with the Board of Commissioners of the Commission within fourteen (14) days of receipt of the special examiner's final decision. The notice of appeal shall be served upon the Executive Director of the Commission and shall include only the party's name, address, telephone number and case number. Within 7 days after filing a notice of appeal, the appellant shall submit to the Office of the General Counsel, a brief of not more than 10 doubled spaced, typewritten pages. Any brief of more than 5 pages shall include a summary of the arguments. All appeals to the Board of Commissioners of the Commission under this Chapter shall be limited

to a review of the record of the proceedings before the special examiner and of the special examiner's decision. The Office of the General Counsel shall schedule the appeal for consideration at a regularly scheduled meeting of the Board of Commissioners and shall notify the parties of the date, time and place.

The Board of Commissioners of the Commission may, on its own motion, call for oral argument on the appeal. However, the Board of Commissioners will not entertain motions for oral argument from the parties. The findings of the Commissioners shall be final.