


BOSTON WATER AND SEWER COMMISSION



**BILLING, TERMINATION  
AND  
APPEAL REGULATIONS**

AUGUST 29, 2019

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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 Definitions

**Account:** Records containing basic information about a customer for water and sewer service or other services provided by the Commission to the customer. This includes billing and premises addresses, contact information, and activity.

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

**Agreement (or contract):** the delivery of water and sewer service by the Commission for which the customer agrees to pay. This is not a binding legal contract, but a term used only for billing purposes under these Regulations.

**Amount in Dispute:** an amount of a bill that a customer does not agree with or challenges.

**Automated Meter Reading (AMR):** a method by which a water meter, sewer abatement meter, or other service meter device is read without having to enter a premises.

**Automated Meter Reading System:** 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, sewer abatement meter, or other service meter device readings by radio frequency from a customer's premises to the Commission.

**Bill:** a statement of money owed for all charges (as defined in this section) due for water and sewer service or other services provided and all customer transactions during a specific period.

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

**Charges:** 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 or by law to fix, revise, charge and collect.

**Commercial tenant:** a person or group of persons, business or legal entity other than an owner, occupying a dwelling unit in a commercial or mixed-use building and receiving water and sewer service pursuant to a rental arrangement.

**Commission:** the Boston Water and Sewer Commission.

**Customer** shall mean the owner of the premises or commercial tenant.

**Customer Plumbing Emergency:** a situation related to a break or leak or other emergency related to an internal plumbing of a customer after the meter which calls for immediate termination of service.

**Customer Self Service (CSS) Portal:** a way to access customer account information and perform certain functionality online such as viewing and paying a bill.

**Delinquent Account:** an account for which the Commission has not received payment from the customer by the Due Date.

**Due Date:** the date payment is due to be paid by the customer on the account which equals thirty (30) days after the date the bill is posted and/or printed by the Commission.

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

**Owner:** a person or persons who has legal title to any premises and is the financially responsible for payment of water and sewer service or other services provided by the Commission.

**Premises:** a property to which water and sewer service are provided.

**Residential building:** a building containing one or more dwelling units but excluding condominiums, cooperatives, nursing homes, hotels and motels.

**Residential tenant:** a person or group of persons, other than an owner, occupying a dwelling unit in a residential building and receiving water and sewer service pursuant to a rental arrangement.

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

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

**Termination:** 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:** 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:** water, sewer and other services, facilities and commodities furnished or supplied by the Commission pursuant to the Act or by law.

**Water meter:** 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 automated meter reading system.

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

#### 2.2 Billing and Payment

##### Monthly Bills

The Commission will issue monthly bills to its customers.

If the Commission is unable to obtain an actual meter reading through the automated reading system, the bill will clearly indicate that the current bill is an estimate.

##### When due

All bills shall be due and payable by the Due Date which is equal to thirty (30) days after the bill is posted and/or printed by the Commission. Bills not paid after the Due Date will be subject to late payment charges under applicable law or these Regulations.

##### Payments; Application to Charges

A customer may make payments by mail, electronically, auto-pay service, by phone 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

late payment charges

other charges

#### Payment to Avoid Termination

To avoid termination of service on a delinquent account, payment following the issuance of a Final Notice and Demand shall be made either in cash, electronically, by credit card or by a certified or a bank cashier's check. A person making a payment in person or online under this paragraph 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, electronically, by credit card or by a certified or bank cashier's check. Customers may make arrangements with the Commission to pay the arrearages over time.

#### Payment Plans

A customer who cannot pay the full amount due the Commission for charges may be permitted to enter into a payment plan with the Commission. Customers shall be required to sign a payment plan 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 agreement will result in termination of the customer's water service pursuant to these Regulations.

#### Refunds; Application of Credit Balances

If a customer overpays a bill or has a credit balance on an account, the customer may 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 accounts with the largest past due balances.

#### 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 late payment charges pursuant to these Regulations.

### Appeals Process, Disputed Charges

Thirty (30) days subsequent to a final determination of the disputed amount late payment charges will be incurred on any unpaid charges. The Commission shall abate late payment charges accrued during the hearing process and any subsequent judicial review on disputed amounts found not to be due 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 in cash, electronically, by credit card or by a certified or a bank cashier's check to a designated Commission representative.

### 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 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.

## **2.3 Installation and Replacement of Meters and Remote Reading Devices**

The Commission reserves the right to repair or replace any meter at its sole discretion as set forth in its Rules and Regulations.

If the Commission determines that a water meter or any appurtenance thereto has 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 assessed in accordance with Commission Regulations for tampering with a water meter or any appurtenance thereto.

## **2.4 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.

## **2.5 Annual notice**

The Commission shall mail to each customer at least annually 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, such as (but not limited to): The Bay State Banner, La Semana, Sampan Newspaper, South End News and/or 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 thirty (30) 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 a Final Notice and Demand to the owner addressed to owner's billing address as shown on the account records of the Commission; and,
2. post a copy of the Final Notice and Demand at the premises.

##### 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, credit card payment 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 may 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, including a Leak Up to Owner (LUTO).

#### 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 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.

#### **6.5 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 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.

#### **6.6 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.

#### **6.7 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.

#### **6.8 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.

#### **6.9 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.

#### **6.10 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, electronic 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.

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 Executive Director of the Commission with a copy of the Office of General Counsel.

### 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.

## **7.4 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.

### 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.

## **7.5 Appeals to the Executive Director**

A party aggrieved by the decision of a special examiner may file a notice of appeal with the Executive Director 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 with a copy to the Office of General Counsel, and the notice shall include only the party's name, address, telephone number and case number. Within seven (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 ten (10) doubled spaced, typewritten pages. Any brief of more than five (5) pages shall include a summary of the arguments. All appeals to the Executive Director 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.