


STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: February 7, 2011

AT (OFFICE): NHPUC

FROM: Amanda Noonan 
Director, Consumer Affairs

SUBJECT: DRM 10-296, Disconnection of Service Rules
Initial Proposal: Medical Emergency Provisions

TO: Commissioners

CC: Executive Director
General Counsel

The Commission's July 30, 2010 report on regulatory requirements and utility practice regarding medical emergency customers announced that a rulemaking proceeding would be undertaken to address certain issues related, inter alia, to medical emergency certification and procedures for treating customers whose medical certificates lapse.

Pursuant to the Commission's report and the Order of Notice issued in the above-captioned docket on December 9, 2010, Staff has reviewed the existing medical emergency disconnection rules set forth in N.H. Code Admin. Rules Puc 1200. In an effort to solicit preliminary comments from interested participants, including public utility companies operating in New Hampshire, New Hampshire Legal Assistance, and the Office of Consumer Advocate, Staff conducted a technical session on January 4, 2011, and invited the submission of written comments by e-mail. Staff has reviewed the comments received and made a number of revisions to the current rules intended to address the concerns raised in the Commission's July 30 report.

The revised rules are hereby submitted to you with the request that they be adopted as an Initial Proposal to launch the formal rulemaking proceeding in Docket No. DRM 10-296.

Please let me know if you have any questions.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Puc 1200 UNIFORM ADMINISTRATION OF UTILITY CUSTOMER RELATIONS

Puc 1201.02 Scope of Rules. With the exception of Puc 1204 and where otherwise noted, these rules shall apply to any public utility providing electric, gas, sewer, steam, telephone, or water service to the public in the state of New Hampshire excluding limited electrical energy producers as defined in RSA 362-A. With the exception of Puc 1203.07, Puc 1203.11, Puc 1203.12, Puc 1203.16, Puc 1204.01, 1204.02, 1204.03, 1204.04 and 1204.05 and 1205 as such rules apply to residential customers only, these rules shall not apply to rural electric cooperatives for which a certificate of deregulation is on file with the Commission.

Puc 1202.12 "Medical emergency" means a situation where a utility customer or member of the customer's household has a physical or mental health condition that would become a danger to the customer's or household member's physical or mental health in the absence of utility service as certified to the utility by a licensed physician, advanced practice registered nurse, physician's assistant or mental health practitioner as defined in RSA 330-A:2, VII.

~~Puc 1202.12 "Medical emergency" means a licensed physician or mental health practitioner as defined in RSA 330-A:2, VII has notified the utility that the customer has a physical or mental health condition which would become a danger to the customer's physical or mental health in the absence of utility service.~~

Puc 1203.02 Information to Customers.

(j) With the exception of sewer utilities, each utility shall provide notice on or with customer bills no less frequently than two times a year regarding medical emergency certification. The notice shall be consistent with the statement contained in 1203.11 (b)(2)k.

Puc 1203.07 Payment Arrangements.

(b) When a residential customer is unable to pay the total arrearage due and the utility has been notified that a medical emergency exists pursuant to Puc ~~1203.11 (d) and (e)~~ 1205, ~~or, in the case of telephone utilities, pursuant to Puc 403.03(h) and (i),~~ the utility shall continue to provide service to the customer if the customer agrees to a payment arrangement wherein additional flexibility is built into the payment arrangement, including but not limited to negotiating a flat monthly payment, for application to both the arrearage and the customer's current bill.

(k) The utility may disconnect without additional notice any customer for failure to comply with a properly confirmed payment arrangement, except as provided for in Puc ~~1203.11(f)~~ 1205 which deals with medical emergencies.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Puc 1203.11 Disconnection of Service.

(a) This section shall not apply to sewer or telephone utilities. Regulation of disconnection of telephone service shall be found in Puc 403.03. Regulation of disconnection of sewer service shall be found in Puc 703.08.

(b) Except in the circumstances described in Puc 1203.07(k) or listed under (3) below, a utility shall give notice of disconnection as follows:

(1) For purposes of this section, notice of disconnection to a residential or non-residential customer shall consist of written notice setting forth the information listed in (2) below, postmarked 14 calendar days prior to the proposed date of disconnection;

(2) Notice of disconnection shall set forth in clear, concise, and conspicuously printed words the following information:

- a. The name and mailing address of the customer;
- b. The service address, if different from the mailing address;
- c. The account number;
- d. The proposed date of disconnection of service;
- e. A conspicuous statement that the notice of disconnection may be disregarded if the customer has negotiated a current payment arrangement pursuant to Puc 1203.07;
- f. The reason for the disconnection of service;
- g. The possible consequences of disconnection, such as deposit requirement, reconnection fee, and/or any other similar consequences;
- h. The address and telephone number at which the customer may contact the utility;
- i. The toll-free telephone number of the commission's consumer affairs division, which is: 1-800-852-3793;
- j. The method by which the customer may question or contest the disconnection notice, preceded in conspicuous type by the words "Important Notice - Your Rights";
- k. The statement or a statement substantively consistent with the statement: "MEDICAL EMERGENCY- If you believe that a medical emergency exists in your home or would exist if your service were to be disconnected, you may be protected from disconnection. Please contact us at [insert telephone number of the utility] for more information."; and

l. Any additional data which the utility deems pertinent;

(3) Notice to a residential or non-residential customer shall not be required if the utility both notifies the commission of the disconnection within 48 hours of the disconnection and one of the following conditions exists:

- a. The customer has obtained utility service in an unauthorized manner or used utility service fraudulently;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- b. The customer has clearly abandoned the property as demonstrated by the fact that the service address premises have been unoccupied and vacant for a period of 60 calendar days;
 - c. A condition dangerous to the health, safety or utility service of others exists; or
 - d. Clear and present danger to life, health or physical property exists;
- (4) The requirements of (3) above shall not impose a duty on utilities to know of any dangerous condition, ~~nor~~or to insure against any such condition; and
- (5) The notification to the commission required in (3) above shall not apply where the disconnection has occurred at the request of municipal officials such as fire, police, or other public safety departments.
- (c) Except as limited by (d) below, a utility may disconnect service to a residential customer after notice if any one of the following circumstances exists:
- (1) When the customer has failed to pay an arrearage after proper demand therefore;
 - (2) When the customer has failed to pay a deposit request or to establish a direct debit account or provide an acceptable third-party guarantee in lieu of the deposit pursuant to Puc 1203.03;
 - (3) When the customer has failed to pay the bill and failed to enter into a payment arrangement for payment of the bill on or before the due date printed on the bill; or
 - (4) When the customer refuses access to the residential premises for a necessary inspection of utility property, including but not limited to the reading of meters.
- (d) A utility shall not disconnect a residential customer's service and a notice of disconnection shall not be sent to a residential customer if any of the following conditions exist:
- (1) The customer's arrearage is less than 60 calendar days outstanding and is less than \$50;
 - (2) The unpaid bill results from other than basic utility service, such as merchandise, appliance sales, or repairs;
 - (3) Winter period rules apply pursuant to Puc 1204;
 - (4) Medical emergency rules apply pursuant Puc 1205:
~~The utility has been notified by a licensed physician, or mental health practitioner pursuant to (e) below, within the prior 60 calendar days, that a medical emergency exists at the location or would result from the disconnection of service;~~
 - (5) A municipal welfare office has guaranteed payment of current bills on behalf of the customer, pursuant to the town's public welfare obligations under RSA 165, and the customer agrees to enter into a reasonable arrangement for repayment of the amount in arrears pursuant to Puc 1203.07; or
 - (6) The arrearage is for prior residential service furnished in the name of someone other than the customer of record unless:
 - a. The customer of record and the above mentioned person other than the customer of record resided together at the address where the arrearage was incurred;
 - b. Both that person and the customer of record received the benefit of the utility service;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

c. Both that person and the customer of record reside together at the current service address and receive the benefit of the current utility service; and

d. The person other than the customer of record refuses to enter into a payment arrangement subject to all the provisions of Puc 1203.07.

~~(e) The licensed physician's or mental health practitioner's notification~~

(ie) A utility may disconnect service to a non-residential customer after proper notice if any of the following conditions exist:

(1) The customer has failed to pay any arrearage remaining unpaid after proper demand therefore;

(2) The customer has violated any tariff provision;

(3) The customer has failed to pay a properly requested deposit, establish a direct debit account or provide an acceptable third party guarantee; or

(4) The customer refuses access to the premises for a necessary inspection of utility property, including but not limited to the reading of meters.

(jf) Unless special arrangements are made with the customer, a utility shall only disconnect service to its residential customers from 8:00 am to 3:30 pm Monday through Thursday.

(kg) The utility shall not disconnect service to its residential customers during the time specified by (jf) above if the proposed disconnection would occur on:

(1) A state or federal holiday;

(2) The day preceding a state or federal holiday;

(3) A day the commission is closed to the public; or

(4) The day preceding a day the commission is closed to the public.

(lh) Unless special arrangements are made with the customer, a utility shall only disconnect service to its non-residential customers from 8:00 am to 3:30 pm Monday through Friday.

(mi) The utility shall not disconnect service to its non-residential customers during the time specified by (lh) above if the proposed disconnection would occur on:

(1) A state or federal holiday; or

(2) A day the commission is closed to the public.

(nj) The utility shall have 8 business days from the date of the proposed disconnect in which to implement the disconnection.

(ok) Except as limited in 1205.05, Before disconnection of residential service, the utility employee disconnecting the service shall notify an adult occupant of the premises or leave a written notice if no adult is at the premises. The notice shall include information as to how the customer may be reconnected.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(p~~l~~) When the utility sends an employee to a residential customer's premises for the purpose of disconnecting service and the customer tenders payment of the past due amount in full to prevent disconnection, the employee shall act as follows:

(1) The utility's employee shall accept the payment, provide the customer with a receipt, and leave the service intact as long as the following is true:

- a. The employee shall know the full past due amount to be paid to bring the customer's account current;
- b. The employee shall not be required to make change; and
- c. The employee shall not be required to negotiate payment arrangements; or

(2) Without disconnecting the customer's service, the utility's employee shall direct the customer to go immediately to the utility's nearest office or payment agency and tender payment there.

(m~~q~~) A utility may charge for collection of payment at the customer's premises in accordance with the utility's tariffs on file with the commission.

(n~~r~~) The utility shall not be required to follow the procedures described in (p~~l~~) above more than 2 times in a 12 month period.

(s~~o~~) A utility may use a third party to conduct collection activities provided:

- (1) The third party complies with Puc 1200; and
- (2) For all accounts other than terminated accounts, the use of a third party is transparent to the customer.

(t~~p~~) The commission shall impose a moratorium on disconnections of service when there exists an imminent peril to the public's health, safety or welfare.

(u~~q~~) Utilities shall maintain records showing the:

- (1) Number of disconnection notices sent out annually; and
- (2) Annual number of and reasons for actual disconnections.

Puc 1203.13 Reconnection of Service.

(e) A charge shall be made for reconnection of service in accordance with tariffs on file. However, no charge shall be made when the cause for disconnection was not in compliance with Puc 1203.11, ~~and~~ Puc 1203.12 and Puc 1205.

Puc 1203.19 Interruption of Service.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(c) Whenever practicable with reference to the planned work, contemplated by (b) above, utilities shall notify the following customers, where known, in advance:

- (1) Alarm services;
- (2) Medical alert services;
- (3) Emergency services;
- (4) Medical emergency customers; and
- (45) Other similarly situated customers who will be seriously affected by the service interruption.

PART Puc 1204 WINTER RULES

Puc 1204.06 Review of Pre-Winter Period Disconnections

(f) Where a customer indicates that a household member has a medical emergency as defined in Puc ~~1203.11~~ (d)(4)1202.12, the utility shall inform the customer of his/her rights as detailed at ~~in Puc 1203.11~~ (e)1205 and service will be restored upon:

- (1) Receipt of a licensed physician's, advanced practice registered nurse's, physician's assistant's or mental health practitioner's notification/certification of medical emergency; and
- (2) Establishment of a payment arrangement in accordance with Puc 1203.07.

(g) Annually, the utility shall submit a report to the commission no later than December 10 summarizing:

- (1) The number of letters mailed;
- (2) The number of letters returned;
- (3) The number of customers whose service was restored;
- (4) The number of customers whose service was not restored; and
- (5) The reasons why service was not restored, if known.

(h) This part Puc 1204.06 shall take effect November 1, 2005.

Source. #8192, eff 10-22-04

PART Puc 1205 MEDICAL EMERGENCY RULES

Puc 1205.01 Applicability of Medical Emergency Rules. The provisions of Puc 1205 shall apply to service provided to residential customers by electric, gas, steam and water utilities. The requirements of this section shall be in addition to those requirements of Puc 1203.11, Puc 1203.12, and Puc 1204. Medical emergency rules pertaining to service provided by telephone utilities to residential customers shall be found in Puc 412 and Puc 432.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Puc 1205.02 Medical Emergency Certification.

(a) Provision of a medical emergency certification, in conjunction with a payment arrangement for any past due balances in accordance with 1203.07 (b), shall be sufficient to protect a customer's account from disconnection of service so long as the customer complies with the terms of the payment arrangement.

(b) A medical emergency certification shall be valid for the period of time designated by the licensed physician, licensed advanced practice registered nurse or licensed physician's assistant or mental health practitioner as defined in RSA 330-A:2, VII, provided the certification is for no less than 90 days and no more than one year.

(c) There is no limit on the number of times a medical emergency certification may be renewed consistent with (b) above.

(d) Oral notification of the existence of a physical or mental health condition which would become a danger to the physical or mental health of the customer or household member may be provided to the utility by the customer and shall be sufficient to protect a customer's account from disconnection of service provided:

(1) Certification as described in (e) below from a physician, advanced practice registered nurse, physician's assistant or mental health practitioner is received within 15 calendar days; and

(2) Any prior oral notification made within the past 6 months has been verified through certification as described in (e) below.

(e) Certification of a medical emergency by a physician, advanced practice registered nurse, physician's assistant or mental health practitioner shall:

(1) Contain a statement to the effect that the customer or identified member of the customer's household has a physical or mental health condition which would become a danger to the customer's or household member's physical or mental health should the utility service be disconnected;

(2) Be in writing, which includes any electronic communication, or be made by telephone with written or electronic confirmation received by the utility within 15 calendar days of the telephoned certification;

(3) Contain licensing information for the physician, advanced practice registered nurse, physician's assistant or mental health practitioner; and

(4) Indicate the use of any life support equipment by the customer or identified member of the customer's household.

(f) All renewals of medical emergency certifications shall comply with (b) and (e) above.

(g) The medical emergency certification may be made through the completion of a form provided by the utility or another written or electronic format provided such other format complies with the provisions of (e) above.

(h) Upon being notified of the existence of a medical emergency in accordance with (d) or (e) above, the utility shall inform the customer in writing of the following:

(1) The customer's continuing obligation to pay for services;

(2) The requirement to enter into a payment arrangement for any past due amounts as a condition of the medical emergency certification;

(3) The option to designate a third party contact for communications with the utility regarding billing and other matters related to the customer's account; and

(4) The need for the customer to plan for power outages that might occur.

(i) If certification of a medical emergency has not been provided within 15 days of receipt of oral notice from a customer or the physician, advanced practice registered nurse, physician's assistant or mental health practitioner that a medical emergency would exist if utility service were disconnected, the utility shall send a reminder notice to the customer advising that such certification must be received within 15 days of the date of the reminder.

(j) If the utility does not receive written or electronic certification of the medical emergency within the time period in (i) above, the utility may disconnect service in accordance with Puc 1203.11.

Puc 1205.03 Disconnections of Service to Medical Emergency Customers.

(a) A utility shall not disconnect service to a customer who has provided current verification of a medical emergency and is complying with a payment arrangement for any past due amounts.

(b) If a customer does not enter into a payment arrangement or does not comply with the terms of a payment arrangement negotiated in accordance with Puc 1203.07, the utility may seek permission to disconnect service to the customer.

(c) When requesting permission from the commission to disconnect service, the utility shall provide the commission with the following information:

(1) The customer's name;

(2) The service address;

(3) The customer's account number;

(4) The requested date for disconnection;

(5) The history of the medical certifications on the account;

(6) The amount of the arrearage;

(7) The amounts and dates of the last 3 payments received by the utility;

(8) The amount and date of the next anticipated payment, if known;

(9) The last 12 months of billing and payment history;

(10) Summary of collection activities on the account;

(11) The number of children in the household under the age of 5, if known;

(12) The number of household members over the age of 65, if known;

(13) The existence of any financial hardship, if known, as documented on an annual basis by the customer claiming financial hardship; and

(14) Any other information the utility deems pertinent.

(d) When the utility seeks commission authorization to disconnect service pursuant to this section, it shall notify the customer in writing of its request at the same time.

(e) The commission shall not approve disconnection of service to customers with a current medical emergency certification when the customer has made a good faith effort to make payments towards the utility bill.

(f) Upon approval by the commission of disconnection, the utility shall provide notice to the customers as required in 1203.11 prior to disconnecting service.

Puc 1205.04 Expiration of Medical Emergency Certification.

(a) Thirty days prior to the expiration of the medical emergency certification, the utility shall send a reminder notice to the customer advising that, if a medical emergency still exists, the certification of a medical emergency must be renewed. The notice shall include the date by which the certification must be renewed.

(b) Upon the expiration of a medical emergency certification, the utility shall notify the customer that the medical emergency certification has expired and the customer's account will no longer be medically protected. Such notice shall also indicate the balance due, if any.

(c) Notice provided in (b) above shall include a statement directing the customer to contact the utility immediately if the previously certified medical condition continues to exist.

Puc 1205.05 Disconnection of Service to Customers with Expired Medical Emergency Certifications.

(a) The utility is required to follow the steps set forth in 1205.05 (b) through (h) one time within the 9 month period following the expiration of the medical emergency certification.

(b) The issuance of any notice of disconnection shall be done in accordance with 1203.11(d) and shall comply with the provisions of 1203.11(b).

(c) No less than 2 calendar days but no more than 8 calendar days prior to the date of the proposed disconnection of service, personal contact must be made with the customer or an adult occupant of the premises. The contact may be made by telephone or in person.

(d) If no personal contact is made as described in (c) above, no disconnection shall occur unless the utility complies with (e) below.

(e) The utility may proceed with a field visit on or after the disconnection date stated on the notice.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(1) If an adult occupant of the residence is not at home, the utility shall leave a notice in a conspicuous location at the premises and shall leave the premises without disconnecting the service; or

(2) If an adult occupant of the residence is at home, the utility shall ask if the medical emergency still exists and inform the adult occupant of the process for providing a certification of medical emergency as described in 1205.02 (b) and (d). If no medical emergency exists, the utility may proceed with the service disconnection in accordance with Puc 1203.11.

(f) The notice required in (e)(1) above shall advise the customer:

(1) The medical emergency certification on the customer's account has expired;

(2) There is an unpaid past due balance on the account;

(3) The utility was at the premises that day to disconnect the utility service;

(4) To contact the utility to make arrangement for payment; and

(5) The utility will return the following week to disconnect service unless the customer contacts the utility.

(g) For the purposes of this section, the 8 business day limitation established in 1203.11 (j) shall begin upon the provision of notice pursuant to (e)(1) above.

(h) Prior to disconnecting the service of a customer with whom no personal contact was made, a supervisor at the utility shall review the account.

Puc 1205.06 Reporting Requirements.

(a) Each utility shall provide an annual report to the commission containing:

(1) The total number of customers with medical emergency certifications on June 30;

(2) The total amount due and the total amount past due as of June 30 for those customers with medical emergency certifications;

(3) The monthly average number of customers with medical emergency certifications for the period July 1 through June 30;

(4) The monthly average balance due and past due for the period July 1 through June 30;

(5) The percent of medical emergency customers with past due balances as of June 30;

(6) The number of accounts with current medical emergency certifications that were disconnected during the period July 1 through June 30 and the past due balances associated with those accounts;

(7) The number of accounts with expired medical emergency certifications that were disconnected in accordance with Puc 1205.04 during the period July 1 through June 30 and the past due balances associated with those accounts; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(8) The number of customers with current medical emergency certifications who were disconnected in error along with an explanation of why the account was erroneously disconnected.

(b) The report required in (a) above shall be submitted to the Commission no later than August 15 of each year.