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**A Model State Regulation for
Nonpayment Disconnections**

NOTE TO READERS

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**The Design of Workable Protections for
Service Disconnections for Nonpayment**

Fisher, Sheehan and Colton (FSC) was recently asked to prepare an annotated model state utility commission regulation governing the use of service disconnections as a response to residential bill nonpayment. FSC's resulting regulation is not unique to low-income customers. It would apply to all residential utility customers.

Its model DNP (disconnect nonpayment) regulation is presented below:

**Disconnections for Nonpayment (DNPs):
A Model State Commission Regulation**

August 2012

SECTION 1. STATEMENT OF POLICY¹

If a utility chooses to disconnect service² to a customer, it must follow the procedures below, or modify them in ways that are more generous to the customer. Each utility is encouraged to develop specific policies for service disconnection that treat its customers with dignity and respect its customers' or members' circumstances and payment history, and to implement those policies in ways that are consistent and non-

¹ This Statement of Policy is based on Texas Administrative Code, Title 16, Part 2, section 25.29(a) (2012).

² This Model Regulation uses the term "disconnection of service." Different states use different terminology: shutoff of service; termination of service, suspension of service. Unless the context clearly demonstrates otherwise, these terms should be considered *sui generis*.

discriminatory. Disconnection is an option allowed by the Commission, not a requirement placed upon the utility by the Commission.³

SECTION 2. DISCONNECTION WITH AND WITHOUT NOTICE

A) A utility may⁴ disconnect service to a customer⁵ without advance written notice⁶ under the following conditions:⁷

- 1) An obvious,⁸ immediate hazard exists which threatens the safety or health of the customer or the general population or the utility's personnel or facilities.
- 2) The utility has evidence of meter tampering or fraud by the customer.⁹

³ This section makes clear in two ways that a service disconnection for nonpayment is a discretionary action on the part of the utility. First, the section refers to “*if* a utility *chooses* to disconnect service. . .” Second, the language specifically provides that service disconnection is “an option allowed by the Commission” rather than an obligation imposed by the Commission.

⁴ This section is enabling in nature. A utility need not disconnect service without advance written notice under the prescribed circumstances, but is allowed to do so (“may”).

⁵ The authorization for the utility to disconnect service without advance written notice does not insulate the utility for liability should the utility inappropriately disconnect service. See generally, Colton (1989). “Unlawful Utility Disconnections as a Tort: Gaining Compensation for the Harms of Unlawful Shutoffs.” 22 *Clearinghouse Review* 609.

⁶ This regulation provides only that a utility need not provide “advance *written* notice.” It does not exempt a utility from requirements to make personal contact (e.g., telephone contacts, in-person site visits) as otherwise prescribed by these regulations.

⁷ This Section is largely based on Alaska Administrative Code, Title 3, part 7, Section 52.450(a) (2012). The exceptions to the Alaska language are noted in footnotes.

⁸ One addition to the Alaska Administrative Code is incorporated into the Arizona utility service disconnection regulations, that an “immediate hazard” must also be “obvious.” Arizona Administrative Code, Section R14-2-509(b(1))(a) (2012).

⁹ Meter tampering and related “fraud” (e.g., unlawful connections) can justifiably be used as a basis for the discon-

3) A customer has failed to comply with the curtailment procedures imposed by a utility during emergency supply shortages.

B) A utility may disconnect service to any customer for any reason stated below, provided the utility has met the notice requirements established by the Commission:¹⁰

- 1) Violation by the customer of any of the utility's tariffs filed with the Commission and/or violation of the Commission's rules and regulations.
- 2) Failure of the customer to pay a bill for utility service, provided that:

a) The utility has made a diligent effort to have the customer pay the delinquent account;¹¹ and¹²

b) The customer has not paid or made a payment arrangement on an undisputed overdue amount that is

nection of service without prior written notice due to the public health and safety implications of the potentially dangerous connections. It is to be distinguished from allegations of fraud in other respects as discussed subsequently in these Regulations.

¹⁰ This section makes clear that the regulation does not permit the imposition of third-party liability. It relates to reasons for which service disconnection may occur to actions and/or inactions “of the customer” and “by the customer.”

¹¹ See e.g., Regulations of Connecticut State Agencies, 16-3-100(b)(2)(J) (2012); see also, South Carolina Code of Regulations, Section 103.735.1(A) (2012) (“Service may be terminated for non-payment of a bill, provided that the water utility has made a reasonable attempt to effect collection.”)

¹² The use of the conjunctive “and” in this section makes clear that the utility must show that *both* elements of this regulation have been met i.e., that *both* a diligent effort to collect has been made *and* the undisputed amount meets the size and aging criteria.

more than \$50.00 or more than 90 days old.¹³

- 3) Failure of the customer to make payment in accordance with the terms of a deferred payment agreement.¹⁴
- 4) Failure of the customer to meet or maintain the utility's credit and deposit requirements.
- 5) Failure of the customer to provide the utility reasonable access to its equipment and property.
- 6) A fraudulent and material misrepresentation¹⁵ by the customer in obtaining utility service.¹⁶

¹³ See, Code of Maine Rules, Title 65, Part 407, Chapter 815, Section 10(A)(1) (2012); other states impose similar restrictions as to both the minimum age and level of arrears prior to an account being subject to disconnection. See, e.g., New Hampshire Code of Admin. R. PUC, section 1203.11(g)(1) (2012).

¹⁴ Many states do not expressly call-out nonpayment on a deferred payment arrangement as a separate grounds for the disconnection of service. The better-reasoned regulations, however, distinguish between nonpayment on a payment agreement and nonpayment of a bill for current usage. See e.g., Texas Admin. Code, Title 16, Part 2, section 25.29(b)(2) (2012); Wisconsin Admin. Code, Section 113.0301(1)(a) (2012); Illinois Administrative Code, Chapter Title 83, Chapter I, subchapter B, section 280-130(a)(1)(D) (2012).

¹⁵ It is important to note that *all* elements of this regulation must be met. A utility must show three things: (1) that a misrepresentation occurred; (2) that the misrepresentation was "fraudulent"; and (3) that the misrepresentation was "material" in some respect.

¹⁶ Some states allow service disconnection without notice in instances where "fraud" is alleged. The Connecticut approach, requiring notice in instances of alleged fraud, is the better approach. Regulations of Connecticut State Agencies, 16-3-100(b)(2)(D) (2012). Indeed, given the purpose of notice, to provide a customer an opportunity to dispute the reason for the service disconnection and an opportunity to be heard, instances of alleged fraud are perhaps particularly appropriate for a requirement that prior written notice be provided. See generally, Colton (1990).

- 7) When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.¹⁷

SECTION 3. INADEQUATE OR INSUFFICIENT REASON FOR DISCONNECTION

- A) A utility may not disconnect service to a customer for any of the following reasons:¹⁸
 - 1) Delinquency in payment for services rendered to a prior customer at the premises where service is being provided.¹⁹
 - 2) Failure of the customer to pay for services or equipment not regulated by the commission.²⁰
 - 3) Nonpayment of a bill related to another class of service at a different service location.²¹

"Heightening the Burden of Proof in Utility Shutoff Cases Involving Allegations of Fraud." 33 *Howard L. Review* 137.

¹⁷ See e.g., Alaska Administrative Code, 3 AAC 52.450(b)(5) (2012); Arizona Administrative code, R14-2-509(c)(1)(f) (2012); Minnesota Rules, 7810.1800(H) (2012).

¹⁸ Severe weather restrictions are not included in this Model Regulation since they are subject to a separate Model Regulation.

¹⁹ This operationalizes and places into regulation the general rule of contract that if an express contract between the parties is established, a contract embracing the identical subject cannot be implied; in such a case, an implied agreement cannot co-exist with the express contract. See generally, Colton (Sept/Oct 2001). "The Legality of Conditioning Utility Service on Payment of a New Roommate's Old Debt," 35 *Clearinghouse Review* 330.

²⁰ For example, a utility's sale of appliances through an energy efficiency program; service plans for appliances or heating systems; or other similar efforts, could not be used as the basis for a service disconnection.

²¹ For example, this operationalizes the general rule that residential service may not be disconnected for nonpayment of a non-residential account. A small business owner

- 4) The customer disputes the amount due on the delinquent account, complies with the utility's tariffed rules on customer bill disputes, and the dispute remains under investigation by the utility or by the commission; however, a customer shall pay any undisputed amount, and the utility may proceed to disconnect service in accordance with this section for failure to pay any undisputed amounts.
- 5) The customer is unable to pay the full delinquent amount due, qualifies under the utility's tariffed eligibility requirements for deferred payment agreements, and is in compliance with a signed deferred payment agreement, or is in the process of timely negotiating a deferred payment agreement.²²
- 6) Failure to pay for a bill to correct a billing error if the customer agrees to pay over a reasonable period of time.²³
- 7) Failure to pay the bill of another customer as guarantor thereof.²⁴
- 8) Failure to pay an estimated bill unless the customer refuses to provide access for the reading of the meter during the

utility's normal working day or to provide a customer reading.²⁵

- B) A utility shall not tender a notice of disconnection to a residential customer if the utility may not disconnect service at the time of the issuance of the notice.²⁶

SECTION 4. CUSTOMER PAYMENTS TO HALT DISCONNECTION

- A) The customer has the right to pay any delinquent bill at any time prior to disconnection in order to preserve uninterrupted service. After proper notice of disconnection has been provided pursuant to these Regulations, it shall be the customer's responsibility to contact the utility and arrange payment before disconnection.
- B) When a customer pays a bill at the utility's business office or to an authorized agent of the utility, that payment, including any partial payment, shall be immediately credited to the customer's account where feasible, and in any event be credited to the customer's account as of the date received at the business office or by the agent.²⁷ No utility

does not place his or her home energy service in jeopardy by nonpayment of the business account.

²² See e.g., Alaska Administrative Code, tit. 3, Section 52.450(f)(5) (2012).

²³ Defining the scope of time over which payment of a billing error should be allowed is beyond the scope of this Model Regulation.

²⁴ A person does not place his or her own residential service in jeopardy for nonpayment of another account which he or she has agreed to serve as a guarantor. See, Arizona Administrative code, R14-2-509(A)(5) (2012).

²⁵ See e.g., Regulations of Connecticut State Agencies, Section 16-3-100(b)(3)(K) (2012).

²⁶ This section makes clear that a disconnect notice may not systematically be issued simply because there is an unpaid bill. For example, because a customer that is current on a deferred payment agreement may not be subject to the disconnection of service, customers that are current on such payment agreements may not receive disconnect notices. For example, customers that have an arrearage, but whose arrearage is not of sufficient size or age to merit a disconnection of service under this Regulation, may not be sent a disconnect notice. Customers for whom service disconnection is barred during either hot or cold weather may not be sent a disconnect notice during those protected periods.

²⁷ Under this regulation, in other words, a utility may not create time deadlines within a day by which a payment must be made for the payment to be treated as having been made that day. A utility may not, for example, create in-

shall disconnect service to a customer who pays, to the utility or an authorized agent of the utility, the total amount due on the account (or an amount agreed upon between the utility and the customer to prevent disconnection), by the close of business on the day preceding the disconnection date listed on the disconnection notice. Payment received by an authorized agent of the utility shall constitute receipt of payment by the utility.²⁸

- C) A utility representative dispatched to disconnect service must accept payment of a delinquent account at the service address, but will not be required to give change for cash paid in excess of the amount due and owing. The utility must credit any overpayment to the customer's account. The utility may charge a fee for the disconnection visit to the service address if provided for in the utility's tariff.²⁹

SECTION 5. REQUIRED PAYMENT PLANS³⁰

No utility may disconnect service to any gas or electric residential customer whose service is subject to disconnection for a delinquent amount until the utility first offers³¹ the customer a rea-

sonable payment agreement, not merely a reactive obligation to respond to or agree upon a request should such a request be made by a customer.

²⁸ See e.g., Ohio Administrative Code, Section 4901:1-10-22(E) (2012).

²⁹ See e.g., Washington Administrative Code, Section 480-90-128(6)(k) (2012).

³⁰ A separate Model Regulation for deferred payment arrangements has been promulgated. See, Colton (Sept/Oct 2011). "Deferred Payment Arrangements: A Model State Commission Regulation," *FSC Law and Economics* Insights, Fisher, Sheehan & Colton, Public Finance and General Economics: Belmont (MA).

³¹ In the separate Model Regulation, it is made clear that a utility has an affirmative proactive obligation to "offer" a

sonable deferred payment agreement. The specifics of the reasonable agreement may vary according to the particular case and shall be determined by both the utility and the customer receiving residential utility service.³²

SECTION 6. NOTICE REQUIREMENTS

- A) A utility shall, at least 15 days before the scheduled date of disconnection,³³ mail or deliver to the customer a written notice of its scheduled disconnection of service. A copy of the disconnection notice must be simultaneously forwarded to any third party designated by the customer under these Regulations. The notice shall contain, at a minimum, the following information:
- 1) The name and address of the customer whose service is to be disconnected and the service address, if different.
 - 2) The date on which service is scheduled to be disconnected unless the customer takes appropriate action.³⁴
 - 3) An explanation of the reason for the proposed disconnection, including, if appropriate, a statement of the amount

reasonable payment agreement, not merely a reactive obligation to respond to or agree upon a request should such a request be made by a customer.

³² See e.g., Regulations of Connecticut State Agencies, Section 16-3-100(b)(3)(A) (2012).

³³ Note the requirement that there be a date scheduled for the disconnection of service under this regulation before a "notice of disconnection" may be issued.

³⁴ In line with the approach taken in these Model Regulations overall, the disconnect date to be included in a notice of disconnection is not an "on or after" date. The date included in the notice is to be the date on which the disconnection of service has been scheduled to occur.

of the delinquent bill which the customer has failed to pay.³⁵

- 4) A statement of the minimum payment or other action required to prevent the disconnection of service.³⁶
- 5) If disconnection is premised on payment delinquency,
 - a) A statement advising the customer to contact the utility for information regarding deferred payment and other procedures that the utility may offer to avoid disconnection of the customer's service; and
 - b) A list of any governmental or social assistance agencies, of which the utility is aware, that may offer energy assistance to qualified needy customers.
- 6) A specific request that if a customer's residence is occupied by a person seriously ill, elderly, with a disability, or dependent on life support systems, the customer should notify the utility immediately of that circumstance for consideration in avoiding disconnection.³⁷

³⁵ The "delinquent bill" may or may not be the same as the "disconnect amount." Frequently, the total amount due has a current bill amount included, which would not be subject to the disconnect notice. Moreover, some utilities have a "disconnect amount" that is less than the total delinquent amount.

³⁶ This subsection is substantively different from subsection 3 (immediately preceding). Subsection 3 requires a statement of the total amount of the delinquent bill. This subsection requires the utility to notify the customer of the minimum payment that will halt the disconnection of service. If a 30% payment will halt the service disconnection, the customer should be notified of that fact.

³⁷ Language outlining the process and circumstances to obtain payment relief in the event of a medical emergency is beyond the purview of this Model Regulation.

- 7) A statement advising the customer that the utility's stated reason for the disconnection of service may be disputed and potentially resolved by contacting the utility at a specific address or telephone number.
 - 8) A statement that the utility retains the right to disconnect service, after allowing a customer who disputes a bill the opportunity for a meeting, if the utility continues to find that the reason for the disconnection is just.
 - 9) The telephone number and address of the commission and a statement that the customer may file a complaint with the commission under the Regulations of the Commission if the customer is not satisfied with the utility's response or resolution of a contested bill or tariff provision. and
 - 10) The amount of the utility's tariffed charges, if any, for disconnection and reconnection of service.
- B) Not fewer than three working days prior to disconnection, the utility shall attempt personal contact with the customer either by telephone or by visit of an authorized utility representative to the premises. If by telephone, the utility shall attempt to make contact no fewer than three times at various periods in the day or make other reasonable attempts to contact the customer. A utility shall keep records of all attempted and completed telephone contacts, showing at least the time, the person making the attempt, and the outcome. If by visit to the premises, the utility's authorized representative shall hand-

deliver a “Shut-Off Notice” to the customer or, if no personal contact is possible, leave the notice in a prominent place. The “Shut-Off Notice” or completed telephone call must provide the customer with the following information:

- 1) The name and address of the customer and the service address, if different.
- 2) The date on which service is scheduled to be disconnected unless the customer takes appropriate action.
- 3) An explanation of the reason for the proposed disconnection, including, if appropriate, a statement of the amount of the delinquent bill which the customer has failed to pay.
- 4) A statement of the minimum payment or other action required to prevent the disconnection of service.
- 5) The business office telephone number, after-business-hours telephone number if applicable, and the address of the utility where the customer may pay the delinquent bill, enter into a deferred payment agreement, or file a bill dispute complaint; and
- 6) The amount of the charges, if any, for disconnection and reconnection of service.³⁸

³⁸ See e.g., Alaska Administrative Code, tit. 3, section 52.450(c)(3)(E) (2012). Utilities need to beware, however, not to engage in false and deceptive shutoff notices. A statement that disconnection and reconnection charges “will” be imposed if payment is not made by a date certain, for example, is false and deceptive if imposition of the charge does not occur in every instance in which nonpayment is made. Almost always, the imposition of disconnect and reconnect charges will be tied to whether or not the

- C) No disconnection notice shall be sent to any customer prior to the time said customer has a delinquent account, or prior to the existence of any of the grounds for disconnection set forth in section 2-B.³⁹
- D) A utility shall attempt to advise the customer that service is being disconnected by directing its employee making the disconnection to contact the customer at the time service is being disconnected. When the utility is unable to disconnect service during a call made at the customer's premise, the utility shall attempt to leave a notice at the premise or billing address informing the customer that an attempt to disconnect service has been made and that his/her service continues to be subject to disconnection.⁴⁰
- E) If the utility does not disconnect service on the scheduled disconnection date stated in 6-A(2) of this subsection, or attempted to disconnect service and was unable to do so as described in Section 6-D, the disconnection notice will be considered void. Upon a void notice, the utility must provide a new disconnection notice to the customer as described in 6-A of this section.⁴¹

SECTION 7. PLAIN LANGUAGE OF NOTICE⁴²

service has, in fact, been disconnected (and reconnected) rather than being tied to whether or not a customer payment had been made by a date certain.

³⁹ See e.g., Regulations of Connecticut State Agencies, Section 16-3-100(d)(3) (2012).

⁴⁰83 Illinois Administrative Code 280.130(d) (2012).

⁴¹ See e.g., Washington Administrative Code, section 480-90-128(6)(c) (2012). See also, Code of Maine Regulations, 65-407, Ch. 815, Section 10(F) (2012).

⁴² Code of Maine Regulations, 65-407, Ch. 815, Section 10(K) (2012).

A) Every utility must use a plain language disconnection notice that complies with the following guidelines:

- 1) The type size must be no smaller than 10 points high. The typeface (shape of the letters) should be designed to improve or enhance the visual size of the type. Headlines should be in larger or bold type. All text should be in capitals and lower case as opposed to ALL IN CAPITALS.
- 2) The color of the disconnection notice and type must avoid problems for persons whose “color deficient” sight makes all colors appear as shades of gray.
- 3) The use of reverse-blocks in which letters appear as white against a black or dark gray background must be avoided; and
- 4) The headline on a disconnection notice must conspicuously be entitled “Disconnection Notice” in at least 12 point type.

SECTION 8. MULTI-LINGUAL NOTICE

Any utility which has a substantial number of people living within its service area not using English as their primary language, as determined by the most recently published data of the U.S. Census Bureau, shall provide disconnect notices that shall contain the following information in English and translated into the frequently used non-English languages.⁴³

IMPORTANT NOTICE: Your utility service will be disconnected due to an unpaid balance on your account. You must act immediately to avoid the service disconnection. Important information about how you can avoid the service disconnection is printed in English in the enclosed notice. If you cannot understand English, please find someone to translate this notice. If translation assistance is unavailable, please contact (name) at (phone number) who will try to help you. Information on customer's rights and responsibilities printed in this language is also available by calling that number. ***You must act now to avoid the disconnection of your service.***

SECTION 9. LIMITATION ON DAYS/TIMES OF DISCONNECTION

A) Unless a dangerous condition exists, or unless the customer requests disconnection, service shall not be disconnected on a day, or on the day immediately preceding a day,

⁴³ Regulations of Connecticut State Agencies Section 16-3-100(c)(1)(D) (2012); see also, Oregon Administrative Rules, 860-021-0011 (2012). Other states also recognize the need for multilingual notices. See, Oklahoma Administrative Code, 165:35-21-20(c)(6)(F) (2012); Rhode Island Administrative Code, 53-1-15:III, Section 4(D) (2012).

when personnel of the utility are not available to the public for the purpose of making collections and reconnecting service.⁴⁴

- B) A utility shall not disconnect service at the meter subsequent to 2:00 P.M.⁴⁵
- C) These restrictions may be varied if:
 - 1) The utility has made special arrangements with the customer to disconnect at an alternative time.
 - 2) Access to the premises can only be obtained at an alternative time.
 - 3) The disconnection is for a reason other than nonpayment.⁴⁶ or
 - 4) The utility provides personnel who are readily available to the customer 24 hours per day to evaluate, negotiate or otherwise consider the customer's objections to the disconnection and proper service personnel are readily available to

⁴⁴ 26 Delaware Administrative Code, 4003-4.7.5 (2012). See also, Wisconsin Administrative code, 113-0301(14) (2012) ("Residential service shall not be disconnected on a day, or on a day immediately preceding a day, when the business offices of the utility are not available to the public for the purpose of transacting all business matters unless the utility provides personnel who are readily available to the customer 24 hours per day to evaluate, negotiate or otherwise consider the customer's objections to the disconnection as provided under [these regulations] and proper service personnel are readily available to restore service 24 hours per day.")

⁴⁵ 83 Illinois Administrative Code 280.130(f) (2012). Other states have similar time constraints. See e.g., Iowa Administrative Code, 199-20.4(15)(d) (2012) (2:00 p.m.); Code of Maine Regulations, 65-407, Ch. 815, Sec. 10(L)(1) (2012) (3:00 p.m.); Michigan Administrative Code 460.140, Rule 40(1) (2012) (4:00 p.m.); Vermont Administrative Code, 18-1-4:3.306 (2012) (2:00 p.m.).

⁴⁶ Code of Maine Regulations, 65-407, Ch. 815, Sec. 10(L)(1) (2012).

restore service 24 hours per day at standard reconnection rates, if any.⁴⁷

SECTION 10. LIMITATIONS ON UTILITY ACTIONS

- A) No utility shall:
 - 1) Threaten to disconnect service or take other actions that cannot legally be taken.⁴⁸
 - 2) Threaten to disconnect service when it has no present intent to disconnect service on the date noticed or when actual disconnection is prohibited. Notice of the intent to disconnect service shall be used only as a warning that service will in fact be disconnected on the date published in the notice in accordance with the procedures under this chapter, unless the customer remedies the situation which gave rise to the enforcement efforts.⁴⁹
- B) No utility shall make a practice of delivering more than two consecutive notices of disconnection for past due bills without engaging in the collection identified in the notice.⁵⁰

⁴⁷ Wisconsin Administrative Code, 113.0301(14) (2012).

⁴⁸ Regulations of Connecticut Agencies, Section 16-3-100(b)(3)(M) (2012).

⁴⁹ 52 Pa. Code Section 56.99

⁵⁰ 83 Illinois Administrative Code 280.130(e). This section does not apply to those instances where a disconnection or other collection activity has been avoided because the customer has made an appropriate payment.

SECTION 11. NOTICE TO PUBLIC ASSISTANCE AGENCY

- A) If a utility plans to disconnect the residential utility service of a customer for the nonpayment of his/her bill, and that customer resides in a county in which the [state or county department of social services or related agency] has provided the utility with a written request for notification of residential service disconnection prior to the disconnection, then the utility shall provide the requesting agency with a listing, electronically if feasible, of those customers whose service will be disconnected for nonpayment.
- B) This information will include at a minimum, the customer's first name, middle initial, last name, service address, and county of residence, and shall be made available to the requesting agency simultaneously with the generation of any written disconnection notices being distributed to customers. The requesting agency may use this information to assist customers in the payment of delinquent utility bills in an effort to avoid disconnection of service.⁵¹

SECTION 12. PUBLIC ASSISTANCE /MILITARY DEPLOYMENT

- A) If the utility is informed that the customer's household may qualify for state and/or federal energy assistance, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance.
- B) If the utility is informed that one of the heads of household is a service member de-

⁵¹ Ohio Administrative Code 4901:1-18-06(A)(3)(c) (2012).

ployed for military service, disconnection may not take place at the residence during the deployment or prior to 90 days after the end of the deployment.⁵²

SECTION 13. THIRD PARTY NOTICE

- A) Every utility shall permit a residential customer to designate a third party to receive all notifications relating to termination, disconnection or suspension of service or other credit actions sent to such residential customer, provided that the designated third party agrees in writing to receive such notices. The utility shall promptly notify the residential customer of the refusal or cancellation of such authorization by the third party.⁵³
- B) In no event shall the third party so designated be liable for the bills of the customer, except where that party has previously agreed in writing to be responsible for the bills of the customer.
- C) Following receipt of such a request, the utility shall send copies of all notices of service disconnection to the designated third party in addition to the disconnection notice sent to the customer. In no event shall the utility be held to warrant that such notice will be received by the third party.
- D) Each utility shall maintain a list of the names and addresses of organizations which have notified the utility that they are available as third parties to be notified as provided by subsection (13-A) of this section. Copies

⁵² Iowa Administrative Code, 199-20.4(15)(d)(11), 20.4(17)(b) (2012).

⁵³ See e.g., New York Compilation of Codes, Rules and Regulations, tit. 16, Chap. I, subchapter B, section 11.6 (2012).

of such lists shall be provided by the utility to its customers upon the customer's request.⁵⁴

Section 14. PRE-WINTER INFORMATION PACKAGE

- A) By November 15 of each year, utilities shall mail an informational packet to each residential customer that was disconnected for non-payment between April 16 (the end of the previous winter period) and October 15, who was not subsequently reconnected by November 1, that includes:
- 1) the address and telephone number of the utility.
 - 2) the overdue amount or other reason for the disconnection.
 - 3) the requirements for reconnection.
 - 4) the procedure for residential customers to declare a serious medical condition.
 - 5) the existence of the utility's low-income rate affordability program (if it has one) and procedures for enrollment.
 - 6) a copy of the customer's rights during the winter period, pursuant to these Regulations.
 - 7) the customer's right to bring any unresolved disputes to the Commission; and
 - 8) the Commission's toll-free consumer telephone number, as well as its mailing and email addresses.

⁵⁴ See, Regulations of Connecticut State Agencies, Section 16-3-100(h)(4) (2012).

- B) The informational packet must be mailed to the last known mailing address of the customer.⁵⁵

SECTION 15. MAINTAINING RECORD OF DISCONNECTION

Each utility shall maintain a record of each disconnection of service, including the reason for the disconnection. This record must be maintained for two years and must be available for commission inspection.⁵⁶

For more information on the use of disconnections for nonpayment by public utilities, please write:

roger[at]fsconline.com

Fisher, Sheehan and Colton, Public Finance and General Economics (FSC) provides economic, financial and regulatory consulting. The areas in which FSC has worked include energy law and economics, fair housing, affordable housing development, local planning and zoning, energy efficiency planning, community economic development, poverty and telecommunications policy, regulatory economics, and public welfare policy.

⁵⁵ See, Code of Maine Rules, Title 65, Part 407, Chapter 815, Section 10(L)(4)(b) (2012). This requirement for such an informational packet to be mailed is similar to, though not identical to, the Pennsylvania PUC's required "cold weather survey." In accordance with the Pennsylvania Public Utility Code, the state's electric and natural gas distribution companies under the PUC's jurisdiction must survey residential properties where service has been disconnected during the year and has not been reconnected during the course of the calendar year. The survey assesses the number of households without heat-related service entering the winter months. 52 Pa. Code 56.100(4) (2012).

⁵⁶ See e.g., Michigan Administrative Code, 460.138(1) (2012); see also, Arizona Administrative Code, 14-2-509(C)(2) (2012).