

TITLE 50 COMMONWEALTH UTILITIES CORPORATION

CHAPTER 50-40

CUSTOMER BILLING AND DISPUTES REGULATIONS

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Chapter Authority: 4 CMC § 8157; 4 CMC § 8141(e) and (g).

Chapter History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

Public Law 15-123 (effective December 3, 2007) amended 4 CMC § 8143 to require CUC to bill water, power, and sewer separately. PL 15-123 prohibits CUC from disconnecting “a consumer’s water service for failure to pay for the electrical power portion of their bill.” 4 CMC § 8143. PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, sets forth requirements for the disconnection and reconnection of utility services. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC §§ 8143 -8144 in addition to other code sections.

PL 16-17 contains similar requirements as PL 15-122 and PL 15-123. These requirements include: using security deposits to offset past due amounts; CUC may not disconnect before the disconnection date; disconnections may not occur during disputes regarding billing statements; CUC may not disconnect all services (power, water, and sewer) when a delinquent payment involves only one utility service; and disconnection may not occur for consumers receiving utility assistance for failure of Department of Community and Cultural Affairs to pay the bill. 4 CMC § 8144.

Part 001 - General Provisions

§ 50-40-001 Authority

The regulations in this chapter are adopted by the Commonwealth Utilities Corporation pursuant to 4 CMC § 8157, 4 CMC § 8141(e) and (g) and 1 CMC § 9115, and shall have the force of law.

Modified, 1 CMC § 3806(d).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

§ 50-40-005 Purpose

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The purpose of this chapter is to standardize billing and dispute procedures for all of the utility services provided by CUC, to bill and collect fees in a fair and rational manner, and to adopt procedures which permit consumers to contest their billings while allowing for the efficient management of the corporation. Section 50-40-101 through § 50-40-125 govern only billing disputes. It is contemplated that all other disputes shall be brought as allowed by and pursuant to the Administrative Procedure Act, (1 CMC §§ 9101, et seq.), may not be brought as a claimed offset, setoff, or counterclaim in a billing dispute, and that such disputes not concerning the correctness of a bill shall not serve as a basis to stay disconnection of service for non-payment.

Modified, 1 CMC § 3806(c), (d), (g).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: The Commission changed the period after “Administrative Procedure Act” to a comma to correct a manifest error.

§ 50-40-010 Non-billing Disputes

Any party may seek review of agency action other than the dispute of the correctness or accuracy of a billing by a written request for a hearing pursuant to the Administrative Procedure Act (1 CMC §§ 9101, et seq.). The matter shall be heard pursuant to 1 CMC §§ 9109 and 9110 by a hearing officer employed or appointed by the Board of Directors of CUC who shall initially decide the matter, and whose decision shall become final unless appealed in writing within fifteen days of the initial decision. The initial decision of the hearing officer shall become the interim order of the agency and shall be given effect unless and until stayed, reversed, or modified by the action of the Board. The matter will be reviewed on the record made at the initial hearing and no further hearing shall be held unless good cause is shown and it is ordered by the Board.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Part 100 - Customer Billing Disputes

§ 50-40-101 Filing a Customer Billing Dispute

(a) Within sixty days of a billing or of becoming aware of facts which give rise to a complaint regarding a billing, a customer may dispute the billing. Such disputes are limited to:

- (1) Dispute as to the applicable rate or fee
- (2) Dispute as to the computation of charges
- (3) Dispute as to delivery of services charged for, including disputes regarding accuracy of metering or estimates made by CUC.

(b) The dispute shall be made in writing and clearly and directly state any theory or ground claimed for relief. Any factual allegations claimed to be personally known by the customer shall be made under penalty of perjury. Any factual allegations not claimed to be personally known

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may be made upon information and belief, but the customer shall identify all witnesses they will rely on as to those facts.

(c) CUC shall provide a form to aid the customer in complying with this section, and if the customer attempts to make a verbal complaint regarding a bill, CUC shall advise the customer of the necessity of making a written complaint in order to obtain formal review customer in properly making his complaint.*

*So in original.

Modified, 1 CMC § 3806(e).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

§ 50-40-105 CUC Response to Billing Dispute

Within twenty days of receipt of a written billing dispute, CUC shall cause a written response to be made to the customer. The response shall clearly and directly admit, deny, or explain each of the factual allegations contained in the customer complaint, give the CUC's position regarding any theories or grounds claimed for relief, and state whether the CUC is willing to make an adjustment in whole or in part regarding the disputed billing. The CUC response shall provide notice to the customer that if he wishes to appeal this determination of his complaint he must do so in writing within ten calendar days of delivery of the CUC response, or else further action on his claimed will be barred. If payment has been made of all undisputed charges, no disconnection or other action shall be taken on the disputed bill until ten calendar days after CUC's delivery of its written response.

Modified, 1 CMC § 3806(e).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: PL 15-122 (effective December 5, 2007) provides that CUC "shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement." PL 15-122 § 2 (§ 8144(c)). Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8143-8144 in addition to other code provisions. Public Laws 15-80, 16-2 and 16-17 require that residential customers receive a refund of the security deposit with interest within 30 days after disconnection. 4 CMC §§ 8143(b). The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-40-110 Informal Settlement

The CUC or the customer may request an informal settlement conference at any stage of the proceedings, with or without the presence of an administrative hearing officer. Informal settlement conferences are encouraged, but no such conference shall affect any time limits set by this chapter except upon an order issued by an administrative hearing officer.

Modified, 1 CMC § 3806(d), (f).

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History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

§ 50-40-115 Right to Hearing

Upon receipt of a written response of CUC to a billing dispute the customer may request review of the matter by an administrative hearing officer. Request for a hearing must be in writing and delivered to the Administrative Hearing Office of CUC within ten calendar days of the customer's receipt of the CUC response. Failure to request review within ten calendar days shall result in waiver of the right of any further appeal or hearing, and the matter shall be finally resolved pursuant to the terms of CUC's written response. The hearing shall be conducted pursuant to 1 CMC § 9109. The hearing officer shall issue a written decision and an order regarding disposition of the matter within ten calendar days of conclusion of the hearing. No disconnection of the customer's account shall take place until an order of the administrative hearing officer is issued provided that the customer has paid the undisputed portion of the billing and any undisputed charge occurring during adjudication.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, provides that CUC "shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement." Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144 in addition to other code sections. PL 16-17 contains similar language as PL 15-122 regarding disconnection of utility services. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-40-120 Appeal from Decision of the Hearing Officer

(a) With ten calendar days of the written decision of the administrative hearing officer regarding a billing dispute, the customer or CUC may appeal the decision to the Board of Directors of the CUC. Failure to request review within ten calendar days shall result in waiver of the right of any further appeal. The appeal shall be in writing and state with particularity the parts of the hearing decision excepted to or claimed to be in error. No further hearing need be held unless desired by the Board and the Board may, but need not, review the entire record. Appeal to the Board shall not stay effect of the decision of the hearing officer, and unless or until the decision is stayed or reversed a customer may be disconnected for nonpayment of the disputed amount according to the terms of the decision and order of the hearing officer. The customer may pay the disputed amount and proceed with an appeal, or seek damages for wrongful termination should they prevail in their appeal after service is terminated.

(b) The Board shall decide the appeal at its next meeting occurring after the appeal of a decision by the hearing officer, but may continue the matter should it require further submissions to decide the appeal.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

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Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, provides that CUC “shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement.” Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144 in addition to other code sections. PL 16-17 contains similar language as PL 15-122 regarding disconnection of utility services. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-40-125 Appeal from Decision of the Board

A person aggrieved after the decision of the Board in a billing dispute may seek judicial review pursuant to 1 CMC § 9112.

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

§ 50-40-130 Record for Appeal

All hearings shall be recorded. The customer may obtain a copy of the tape recording of the hearing upon payment of the fee of five dollars per tape. Should a written transcript be requested or required, it shall be at the expense of the party requesting it. Upon request, the hearing officer shall designate a person to prepare a transcript and upon completion certify its accuracy.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

Commission Comment: The Commission changed “it” to “its” to correct a manifest error.

Part 200 - [reserved]

Part 300 - Miscellaneous Provisions

§ 50-40-301 Previous Regulations

If any provision of any previous regulation is found to be in conflict with this chapter, it is the intention of CUC that this chapter shall control in order to provide for uniform treatment of billings for all services provided by CUC.

Modified, 1 CMC § 3806(d).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

§ 50-40-305 Severability

If any provision or provisions of this chapter, or the application of any such provision or provisions to any person or circumstances, shall be held invalid by a court of competent jurisdiction, the remainder of this chapter, or the application of such provision or provisions to

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persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).

§ 50-40-310 Effectiveness

The regulations in this chapter shall become effective upon compliance with 1 CMC § 9105(b) and shall apply to all matters that have not become final as of that date, except that matters which have already been heard shall proceed for appeal under existing regulations, with the initial decision of the hearing officer becoming final if not appealed in writing with fifteen days.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28, 2002).