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HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 62
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 22 AND 26 OF THE DELAWARE CODE RELATING TO THE TERMINATION OF UTILITY SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 117, Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 117. Termination of service or ~~sale.~~ sale to a dwelling unit.

(a) ~~Definitions.~~ For purposes of this section:

(1) "Cooling season" means that portion of the calendar year extending from June 1 through September 30.

~~(1)~~ (2) ~~For purposes of this section, "employee"~~ "Employee" ~~shall include, but not be limited to:~~ includes:

a. Any person who is an employee of such utility authorized to accept payment for sales and ~~services;~~ services.

b. The individual who is to terminate such sale or service.

(3) "Heating season" means that portion of the calendar year extending from November 1 to March 31.

~~(2)~~ (4) ~~For purposes of this section, "person"~~ "Person" ~~shall include, but not be limited to,~~ includes any individual, corporation, partnership, ~~association~~ association, or joint-stock company.

(b) (1) No person who engages in the distribution and sale of gas, water, wastewater, or electricity for use or consumption in any dwelling unit ~~shall~~ may discontinue service or sale thereof due to nonpayment of past charges for such service or sale to the occupants of that dwelling unit and owed by the occupants thereof without at least 72 hours' notice to said occupants of intention to so terminate, except as otherwise provided by this section.

(2) Each gas or electricity utility shall maintain a voluntary third-party notification program whereby a customer may designate, in writing, a third party to also receive the notice of termination of service required by

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paragraph (b)(1) of this section. The third party so designated must indicate, in writing, willingness to receive such notice on behalf of the customer and ~~shall~~ may not be held, in any way, liable to the utility by reason of acceptance of third-party status.

(c) (1) ~~In no event shall such termination occur between 12:00 noon on any Friday and 12:00 noon on the succeeding Monday, unless such utility provides facilities for payment and restoration of such services at all times during such period.~~ Unless there is a safety-related emergency, a utility company may not suspend or turn off utility services to a dwelling unit outside the hours of 8:00 a.m. and 4:00 p.m., Monday through Thursday, unless such utility provides facilities for payment and restoration of services at all times during such period. Should Thursday or Friday be a legal, state or national holiday, ~~the last preceding business day shall be substituted for Friday.~~ Wednesday must be substituted for Thursday. Should Monday be a state or national, legal holiday, the next succeeding business day ~~shall~~ must be substituted for Monday.

(2) Unless there is a safety-related emergency, a utility company may not suspend or turn off utility services to a dwelling unit from December 21 of each year to January 1 of the following year.

(d) In no event ~~shall~~ may such termination occur if ~~any~~ an occupant of ~~any~~ a dwelling unit ~~shall be~~ is so ill that the termination of such sale or service ~~shall~~ will adversely affect the occupant's health or recovery, which has been so certified by a signed statement from ~~any duly~~ a licensed physician, physician ~~assistant~~ assistant, or advanced nurse practitioner, of this State or of a state with similar accreditation and received by any employee or officer of such person engaging in the distribution or sale of gas, ~~water~~ water, or electricity. Signed statements from a licensed physician, physician ~~assistant~~ assistant, or advanced nurse practitioner, obtained pursuant to this section are effective for 120 days. Signed statements may be renewed by means of a new signed statement to prevent termination only if a customer makes a good faith effort to make payments towards the utility service being provided. The Delaware Public Service ~~Commission,~~ Commission may promulgate regulations defining "good faith effort to make payments". If a utility is subject to the jurisdiction of the Delaware Public Service Commission, that utility or a customer of the utility may petition the Delaware Public Service Commission for review of any dispute under this section. While such dispute is pending, a utility ~~shall~~ must continue to provide utility service to the customer until a final Commission adjudication on the petition is issued. When ~~possible~~ possible, no termination under this section ~~shall~~ may occur without advance notice to any known case manager or coordinator of an occupant in an affected dwelling unit.

(e) (1) A gas or electric utility may not terminate service to a dwelling unit for nonpayment of past charges on a day when the National Weather Service reports that the 8:00 a.m. temperature measured at an airport in the same county as

the subject dwelling unit is 35 degrees Fahrenheit or below on the morning of the date when the service is scheduled for termination.

(2) An electric utility may not terminate service to a dwelling unit for nonpayment of past charges on a day when the 8:00 a.m. National Weather Service forecast contains a special weather statement or other information predicting that the Heat Index measured at an airport in the same county as the subject dwelling unit may equal or exceed 95 degrees Fahrenheit on the date when service is scheduled for termination.

(3) When termination of service, otherwise authorized, has been deferred under paragraph (e)(1) or (e)(2) of this section, notice of deferral must be given to the account holder on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated on a day where paragraph (e)(1) or (e)(2) does not apply. If termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwellings units to which service is provided directly or indirectly through a master meter without individual meters, the notice must be given to all occupants of each dwelling unit in the building complex in which service is proposed to be terminated.

(f) (1) No gas or electric utility may terminate service to a dwelling unit during the heating or cooling season for nonpayment of a past due bill unless at least 14 calendar days prior to such termination, written notice is given to the utility account holder. Where the billing address is different than the location of the dwelling unit, written notice must be sent to the billing address and to the address of the dwelling unit. During the heating season, the gas or electric utility must make at least 2 documented attempts on separate days to contact the account holder by telephone, text message, or email prior to actual termination of service. One attempt must be after 5:00 p.m. During the cooling season, the gas or electric utility must make at least 1 documented attempt to contact the account holder by telephone, text message, or email prior to actual termination of service.

(2) Written notice required by paragraph (f)(1) of this section must include the following information:

a. The date on or after which termination of services will occur unless some satisfactory arrangement is made for the payment of the undisputed delinquent bills, which date may be no less than 14 calendar days from the mailing of written notice.

b. That if there is a good faith dispute concerning the unpaid bills, termination of service will not take place pending determination of the dispute, provided the utility is notified of the existence of the dispute prior to actual termination.

c. That if the occupant or other payor is unable to pay the full amount of the undisputed bill, termination of service may be avoided by entering into an initial payment installment agreement with the utility in accordance with the utility's tariff.

d. A referral to charitable or governmental assistance programs, including the Low-Income Home Energy Assistance Program.

e. That if any occupant is ill and the termination of services would adversely affect the occupant's health or recovery, the occupant or other payor may defer termination of services under subsection (d) of this section.

~~(e)~~ (g) ~~Violation of this section shall constitute a misdemeanor.~~ In addition to any other administrative penalty, the Commission may assess a civil penalty of up to $1,000 for each violation of this section. Each day of continued violation is considered a separate violation.

(h) Notwithstanding any other provision of this section, a utility may discontinue service to a dwelling unit if the utility account holder requests that utility services be discontinued and the request is voluntary.

Section 2. Amend Chapter 13, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1319. Termination of services to a dwelling unit.

(a) For purposes of this section:

(1) "Cooling season" means that portion of the calendar year extending from June 1 through September 30.

(2) "Employee" includes:

a. Any person who is an employee of such utility authorized to accept payment for sales and services.

b. The individual who is to terminate such sale or service.

(3) "Heating season" means that portion of the calendar year extending from November 1 to March 31.

(4) "Person" includes any individual, corporation, partnership, association, or joint-stock company.

(b) (1) An electric company may not discontinue services to a dwelling unit due to nonpayment of past charges for services without at least 72 hours' notice to the occupants of the dwelling unit of intention to terminate, except as otherwise provided by this section.

(2) All electric companies must maintain a voluntary third-party notification program where a customer may designate, in writing, a third party to also receive the notice of termination of service required by paragraph (b)(1) of this section. The designated third party must indicate, in writing, willingness to receive such notice on behalf of the customer and may not be held liable to the electric company by reason of acceptance of third-party status.

(c) (1) Unless there is a safety-related emergency, an electric company may not suspend or turn off utility services to a dwelling unit outside the hours of 8:00 a.m. and 4:00 p.m., Monday through Thursday, unless such utility provides facilities for payment and restoration of services at all times during such period. Should Thursday or Friday be a legal, state or national holiday, Wednesday must be substituted for Thursday. Should Monday be a state or national, legal holiday, the next succeeding business day must be substituted for Monday.

(2) Unless there is a safety-related emergency, an electric company may not suspend or turn off utility services to a dwelling unit from December 21 of each year to January 1 of the following year.

(d) In no event may such termination occur if an occupant of a dwelling unit is so ill that the termination of service will adversely affect the occupant's health or recovery, which has been certified by a signed statement from a duly licensed physician, physician assistant, or advanced nurse practitioner, of this State or of a state with similar accreditation and received by any employee or officer of an electric company. Signed statements from a licensed physician, physician assistant, or advanced nurse practitioner, obtained pursuant to this section are effective for 120 days. Signed statements may be renewed by means of a new signed statement to prevent termination only if a customer makes a good faith effort to make payments towards the electric company. The electric company must create a dispute resolution process where disputes under this section may be reviewed. While such dispute is pending, an electric company must continue to provide utility service to the customer until the dispute is resolved. When possible, no termination under this section may occur without advance notice to any known case manager or coordinator of an occupant in an affected dwelling unit.

(e) (1) An electric company may not terminate service to a dwelling unit for nonpayment of past charges on a day when the National Weather Service reports that the 8:00 a.m. temperature measured at an airport in the same county as the subject dwelling unit is 35 degrees Fahrenheit or below on the morning of the date when the service is scheduled for termination.

(2) An electric company may not terminate service to a dwelling unit for nonpayment of past charges on a day when the 8:00 a.m. National Weather Service forecast contains a special weather statement or other information predicting that the Heat Index measured at an airport in the same county as the subject dwelling unit may equal or exceed 95 degrees Fahrenheit on the date when service is scheduled for termination.

(3) When termination of service, otherwise authorized, has been deferred under paragraph (e)(1) or (e)(2) of this section, notice of deferral must be given to the account holder on the date on which termination was to be effected, notifying the occupant that unless proper payment arrangements are made, service will be terminated on a day where paragraph (e)(1) or (e)(2) of this section does not apply. If termination of service involves an apartment complex, trailer park, or other grouping of individual residential dwellings units to which service is provided directly or

indirectly through a master meter without individual meters, the notice must be given to all occupants of each dwelling unit in the building complex in which service is proposed to be terminated.

(f) (1) No electric company may terminate service to a dwelling unit during the heating or cooling season for nonpayment of a past due bill unless at least 14 calendar days prior to such termination, written notice is given to the account holder. Where the billing address is different than the location of the dwelling unit, written notice must be sent to the billing address and to the address of the dwelling unit. During the heating season, the electric company must make at least 2 documented attempts on separate days to contact the account holder by telephone, text message, or email prior to actual termination of service. One attempt must be after 5:00 p.m. During the cooling season, the electric company must make at least 1 documented attempt to contact the account holder by telephone, text message, or email prior to actual termination of service.

(2) Written notice required by paragraph (f)(1) of this section must include the following information:

a. The date on or after which termination of services will occur unless some satisfactory arrangement is made for the payment of the undisputed delinquent bills, which date may be no less than 14 calendar days from the mailing of written notice.

b. That if there is a good faith dispute concerning the unpaid bills, termination of service will not take place pending determination of the dispute.

c. That if the occupant or other payor is unable to pay the full amount of the undisputed bill, termination of service may be avoided by entering into an initial payment installment agreement with the electric company.

d. A referral to charitable or governmental assistance programs, including the Low-Income Home Energy Assistance Program.

e. That if any occupant is ill and the termination of services would adversely affect the occupant's health or recovery, the occupant or other payor may defer termination of services under subsection (d) of this section.

(g) Each contracting municipality under this chapter that engages a municipal electric company must adopt regulations and ordinances to enforce the provisions of this section. The contracting municipality may assess a civil penalty of up to $1,000 for each violation of this section. Each day of continued violation is considered a separate violation.

(h) Notwithstanding any other provision of this section, an electric company may discontinue service to a dwelling unit if the utility account holder requests that utility services be discontinued and the request is voluntary.

Section 3. This Act takes effect 90 days after its enactment into law.