

# PSEG LONG ISLAND ENERGY FORUM FOR ADVOCATES



**ADVOCACY, NEGOTIATION, AND APPEALS  
NASSAU SUFFOLK LAW SERVICES**

**[WWW.NSLAWSERVICES.ORG](http://WWW.NSLAWSERVICES.ORG)**

**516 292-8100  
631 232-2400**

**Legal Support Center for Advocates  
631 232-2400**



# No Heat? Evaluating the Imminent Shutoff

- Ask questions- the problem is not always an issue with PSEG/National Grid
- Does the rent include heat/utilities?
- Does the landlord have a role in the utility interruption?
- Is it a shared meter situation?
- Does burner need repair?



# UTILITY SHUTOFF: AS A LANDLORD TENANT PROBLEM

- Who is utility customer  
(e.g. tenant, co-tenant, or landlord?)
- If it is a shared meter, law requires the bill to be in landlord's name.
- If landlord is responsible for the loss of heat and will not restore, **file a police report**, send **letter** to landlord claiming a serious “warranty of habitability” issue. (A lack of heat can justify a “rent withhold” if properly documented)
- Notify PSEG of problem with landlord and attempt to negotiate with PSEG to pay ongoing bill **ONLY**
- **Heat complaints:** Call 631 852-5900 or 516 227-9715





# Landlord Tenant Utility Issues (cont'd)

- Assistance from DSS or charities to pay arrears/prevent the shutoff is often not available where the bill is not in tenant's name
- Negotiate with PSEG to pay current month only, without taking on landlord's responsibility for arrears (then reduce rent payment)
- As a last resort, tenant has right to open utility account in his name with certain conditions. **(LIPA TARIFF Leaf No. 39 II.A.4)**



# Deferred Payment Agreement

- If the utility bill is in the client's name, negotiate a utility termination with PSEG/National Grid first before going to DSS or a charity.
- Before terminating service, PSEG must “negotiate in good faith” for a “fair and equitable” Deferred Payment Agreement (DPA) based on customer's financial circumstances (16 NYCRR 11.10)
- DPA should be in writing



# Negotiate a Viable DPA!

- Deferred Payment Agreement (DPA) terms must consider financial circumstances. Ask to complete the Determination of Customer Resources form in order to be considered for \$0 downpayment and \$10 per month DPA. (LIPA \*Tariff Leaf No. 146 V.G.4)
- Under DPA, customer must continue to make their regular monthly payments **IN ADDITION** to DPA payments. What are the ongoing monthly payments? Are they affordable?
- To negotiate a written affordable payment plan:

PSEG 800 490-0025 Customer Assistance Center or  
National Grid 800 930-5003

LIPA TARIFF: [www.lipower.org](http://www.lipower.org) (click on “Tariff for Electric Service”, then “Tariff leaves”)



# If Customer Fails to Pay DPA

- Agreement can be amended anytime due to change in circumstances
- If customer renegs on a written DPA, shutoff can proceed (unless customer asked for renegotiated DPA due to change in circumstances OR claims prior **DPA was unreasonable**)
- Termination regulations LIPA TARIFF Leaf No. 144-159.



# PSEG Shutoffs: Medical Emergency

## Necessary elements of **medical certification letter**:

1. On doctors stationery, with address and doctor's registration number
2. Signed by doctor, physician's assistant, nurse practitioner
3. Complete with name and address of patient and nature of illness or medical condition
4. Include statement that the lack of utility service would "aggravate the condition"
5. Effective for 30 days
6. Good idea to submit Determination of Customer Resources form at the same time

Can also be done by phone or fax with 5 day written follow up by doctor Fax 631 844-3635



# If Medical Emergency Request Denied, or No Response

- Register complaint regarding denial with PSEG “Manager 800 490-0025
- Follow “Steps to Appeal”
- Continue Renewal of Medical Certification, if necessary, before 30 days expires



# Renewal of Medical Certification

- PSEG should renew Medical Certification if:
  - Renewal Certification by Doctor or Board of Health official states expected length of medical emergency and explains the nature of the emergency and why lack of utility service would aggravate condition AND
  - Customer demonstrates inability to pay.
- With Proper medical certification utility service should continue. Customer is still liable for payment and should make reasonable efforts to pay. PSEG must assist with workout payments to avoid large arrears after medical emergency is over. SEE LIPA TARIFF V.B.13 Leaf No.125-7



# Summary of Procedure for Medical Certification

LIPA tariff Leaf No.159

- Upon receiving first certification, PSEG must notify customer in writing of decision and provide forms and information for renewal.
- If there is no response, do not assume medical certification was accepted. Call PSEG Customer Service and DPS. If necessary, follow up with appeal/complaint
- If medical necessity continues, before original medical certification expires in 30 days, submit renewed medical certification and financial disclosure form
- Continue this procedure **every 30 days** if medical condition persists ie. medical certification renewal and financial disclosure form



# Other Utility Appeals/Complaints

- Appeals/complaints can involve:
  - shutoff procedure,
  - unfair DPAs,
  - refusal to accept medical certification,
  - right to open acct., etc.

Proposed change in service will not take place while appeal is pending

- Next steps...



# Steps to Appeal Leaf # 159-160

1. Start with the Authority's "Manager". Call 800 490-0025. "Prompt" decision may be oral or in writing.
2. If unresolved, call NYS DEPARTMENT OF PUBLIC SERVICE (DPS) 1800 342-3377 or 3355 or [www.dps.ny.gov](http://www.dps.ny.gov) to file a complaint.
3. After the DPS makes initial decision, customer may request appeal for an informal hearing or review.
4. DPS hearing office will issue *written decision* on the informal appeal
5. If the informal decision of DPS is unfavorable, appeal within 15 days to:

Office of the Secretary, NYS Dept Public Service,  
3 Empire State Plaza, Albany NY 12223-1350

(Leaf No. 163)



# Basis for DPS Appeal

## Requirements for Appeals:

An appeal can take the form of a letter and must be based on one or more of the following:

- a) mistake in the facts or the law
- b) certain evidence wasn't considered
- c) New facts or evidence have become available which would have affected the decision on the complaint.



# Final Appeal Steps

(Leaf # 164-165)

6. **DPS will review appeal letter and recommend decision in writing to Authority**
7. **Authority CEO or designee will ultimately decide the appeal and notify DPS and customer of in written decision**
8. **A Rehearing (without a stay) may be requested to DPS on Authority's decision within 30 days. (Return to step 6)**



# Reconnection

- PSEG obligated to reconnect within 24 hours after conditions of payment have been met.
- If PSEG notified that serious threat to health and safety exists, should reconnect. “Reasonable doubts... will be decided in favor of reconnection.” **Tariff Leaf No. 153**
- Reconnection charge will not apply to low income customers receiving financial assistance from: SSI, HEAP, Public Assistance: welfare, Medicaid or food stamps



# **“Tips” for DSS Assistance**

- **DSS must first consider HEAP eligibility if available. (Advantages: Applicant does NOT have to be the named tenant for regular HEAP. HEAP assistance is not repayable)**
- **If not HEAP season, apply for one of DSS Emergency grants to cover energy emergencies**



# HEAP

- Regular HEAP Opens Nov 13, 2018
- Emergency HEAP starts Jan. 2, 2018
- Heating Equipment and Repair opened Nov 5
- Cooling equipment May 1, 2019
- SNAP and PA recipients may qualify for Autopay HEAP, to be credited in December or January. Call HEAP to verify autopay.  
\$675+ (oil, kerosene, propane) \$525+ (wood, coal) \$350+  
(electric or natural gas)
- Renters\*\* may be also be eligible for **Advance HEAP** benefit of \$21, even if heat is included in the rent and not paid for separately. This grant is available year round
- \*\*Receipt of HEAP payment will impact Food Stamps (SNAP) budget positively in the following year



# Utility Guarantees by DSS

- **Supplemental Security Income SSI** (not SSD!) recipient can get Emergency Assistance to Adults (EAA) to pay utility arrears
- **EAA Advantages:** SSI recipient can keep assets up to \$2,000. Not required to spend down in order to be eligible. Once secured, 6 mo. Guarantee kicks in for ongoing utility bill, no repayment required
- Recipient of *cash public assistance* (PA) can request *restricted* utilities (home energy portions of DSS grant go directly to PSEG) and results in a “guarantee”
- **Advantage of PA Guarantee:** avoids shutoff and future utility payments guaranteed. Utility service must be restored regardless of arrears



# Other DSS Emergency Grants

- Applicant for DSS emergency programs must be “tenant” and “customer of record” to receive assistance
- Repayment agreements required-(Except for HEAP, EAA and PA recipients) 2-yr plans.
- If reneged on prior DSS repayment agreement, not eligible for another grant until current on repayment. Persons under a Public assistance sanction are still eligible for emergency utility assistance.



# DSS Emergency Applications

- Utility disconnects are considered emergencies year round regardless of whether the utility is heat or non-heat.
- There is no cold weather period for heating equipment repair or replacement.
- Heating equipment repair is an “additional need” and is not considered to be an energy emergency

GIS 14 TA/DC-048



# Fair Hearing

- If denied utility assistance get the notice in writing
- Statute of Limitations- 60 days
- Expedited Fair Hearing usually necessary in these cases
- Representation
- How to request

Phone 1 800 342-3334

Fax 1 518 473-6735 (use form)

E-Mail: [www.otda.state.ny.us/oah/oahforms/erequestform.asp](http://www.otda.state.ny.us/oah/oahforms/erequestform.asp)



# More Resources

- Nassau Suffolk Law Services

631 232-2400, or 516 292-8100 (contact number for clients)

- <http://utilityproject.org/>

- Utility regulations contained in LIPA Tariff:

[www.lipower.org](http://www.lipower.org) → Electric Tariff → Tariff Leaves