

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 14.00: THE UNBUNDLING OF SERVICES RELATED TO THE
PROVISION OF NATURAL GAS

Section

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14.01: Purpose and Scope

- (1) Purpose. 220 CMR 14.00 establishes the rules that will govern the natural gas industry in the Commonwealth. The purpose of 220 CMR 14.00 is to provide a regulatory framework for an efficient industry structure that will minimize long-term costs to consumers while maintaining the safety and reliability of natural gas services.
- (2) Scope. 220 CMR 14.00 applies to the Local Distribution Companies, Suppliers and Retail Agents that will participate in the natural gas industry in the Commonwealth.

220 CMR 14.00 shall not apply to a Retail Customer acting as its own Supplier. Nor shall any provision of 220 CMR 14.00 be construed so as to preclude a Retail Customer from acting as its own Supplier, so long as said Retail Customer is an approved shipper on the upstream pipelines and underground storage facilities on which it will be assigned capacity, and meets all other Supplier requirements and practices set forth in the terms and conditions of the Local Distribution Company providing that Retail Customer with Distribution Service.

14.02: General Definitions

For the purposes of 220 CMR 14.00, the terms set forth below shall be defined as follows, unless the context otherwise requires.

Applicant means any entity that has filed an application for certification by the Department as a Supplier or Retail Agent as required by 220 CMR 14.00.

Bill means a written statement from a Local Distribution Company or Supplier to its Retail Customer setting forth, for the billing period identified in the Local Distribution

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Company's tariff:

- (a) the amount of natural gas consumed or estimated to have been consumed;
- (b) charges for Supplier and Distribution Services, as appropriate; and
- (c) any other charges.

Default Service means service other than Supplier Service that is provided to a Retail Customer in accordance with 220 CMR 14.03(4) and the provisions set forth in the Default Service tariff and terms and conditions as may be approved and on file with the Department.

Department means the Department of Public Utilities.

Distribution Customer means a recipient of Distribution Service provided by a Local Distribution Company.

Distribution Service means the delivery of natural gas to the Customer by the Local Distribution Company.

Gas Service means the provision of Distribution, Default or Supplier Services.

Local Distribution Company means a company engaged in the distribution of natural gas to Retail Customers or that owns, operates, or controls plant or equipment used for the distribution of natural gas to Retail Customers.

Retail Agent means any entity facilitating or otherwise arranging for the purchase and sale of natural gas to Retail Customers and that is certified by the Department to obtain, in accordance with 220 CMR 14.04(4)(c), the authorization from one or more Retail Customers to initiate Supplier Service provided by a Supplier.

Retail Customer means a customer located in Massachusetts that purchases natural gas for its own consumption and not for resale in whole or in part.

Non-residential Customer means a Retail Customer who purchases and consumes gas in Massachusetts for non-household uses.

Residential Customer means a Retail Customer who purchases and consumes gas in Massachusetts for household uses.

Service Territory means the area actually served by the Local Distribution Company as defined in its Schedule of Rates.

Small Commercial and Industrial Customers are those customers whose annual load is less than or equal to 7,000 therms of gas.

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Supplier means an entity certified by the Department to sell natural gas, including the sale of capacity, commodity or balancing and peaking services to a Retail Customer, with the exception of:

- (a) a Default Service provider; and
- (b) a Retail Agent.

Supplier Service means the sale of natural gas, including the sale of capacity, commodity or balancing and peaking services to a Retail Customer by a Supplier.

14.03: Local Distribution Company Requirements

(1) Purpose and Scope.

(a) Purpose. 220 CMR 14.03 establishes the rules of procedure by which Local Distribution Companies shall:

1. Provide Distribution Service to Distribution Customers in their Service Territories;
2. Unless otherwise directed by the Department, provide Default Service to Retail Customers in their Service Territories who are not receiving Supplier Service from a Supplier;
3. Bill Retail Customers in their Service Territories, and
4. Terminate Gas Service to Retail Customers for non-payment of bills.

(b) Scope. 220 CMR 14.00 applies to all Local Distribution Companies subject to the jurisdiction of the Department.

(2) Distribution Service.

(a) Each Local Distribution Company shall have the exclusive obligation to provide Distribution Service to all Retail Customers within its Service Territory. No other entity may provide Distribution Service within such Service Territory without the written consent of the Local Distribution Company. Such consent shall be filed with the Department and the clerk of the municipality so affected.

(b) Each Local Distribution Company shall file, for Department approval, a Distribution Service tariff for each rate class.

(c) Each Local Distribution Company shall file, for Department approval, terms and conditions governing the manner in which Distribution Service is provided to its Distribution Customers.

(2A) Low-Income Discount Rates.

(a) Each Local Distribution Company shall have on file a low-income tariff that provides a reduction in the distribution charges to which such Customers would otherwise be subject.

(b) Each Local Distribution Company shall establish eligibility for its

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low-income rate tariff based upon verification of a low-income Customer's receipt of any means-tested public-benefit program or verification of eligibility for the low-income home energy assistance program or its successor program, or other criteria approved by the Department. Eligibility for the low-income discount rate shall be indexed to changes in the low-income home energy assistance program income-criterion, and households satisfying that criterion shall qualify for the rate discount. A Local Distribution Company may file a petition with the Department for an exemption to the eligibility criteria in 220 CMR 14.03(2A)(b) for good cause shown.

- (c) Each Local Distribution Company shall periodically notify all Customers of the availability of and method of obtaining service on the low-income rate tariff.
- (d) Each Local Distribution Company shall allocate to other rate classes, as part of a general rate case, the revenue deficiency resulting from the low-income rate tariff using an allocation method approved by the Department for the Local Distribution Company.

(3) Farm Discount.

- (a) Each Local Distribution Company shall provide Retail Customers who meet the eligibility requirements for being engaged in the business of agriculture or farming, as defined in M.G.L. c. 128, § 1A, a 10% reduction in the rates to which such Retail Customers would otherwise be subject. Each Local Distribution Company shall allocate to other rate classes, as part of a general rate case, the revenue deficiency resulting from the farm discount using an allocation method approved by the Department for the Local Distribution Company.
- (b) Eligibility Verification. Eligibility for the farm discount shall be verified according to criteria established by the Department.

(4) Default Service.

- (a) Unless otherwise directed by the Department, each Local Distribution Company shall have the obligation to provide Default Service to Retail Customers within its Service Territory who are not receiving Supplier Service, consistent with the provisions set forth in 220 CMR 14.04.
- (b) Availability. Default Service shall be available to any Retail Customer who is not receiving Supplier Service in accordance with the Local Distribution Company's terms and conditions.
- (c) Rates. The rate(s) for Default Service provided by the Local Distribution Company shall be as established pursuant to the Local Distribution Company's Default Service and Cost of Gas Adjustment Clause tariffs on file with the Department.
- (d) Terms and Conditions. Each Local Distribution Company shall file, for

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Department approval, a tariff for the provision of Default Service.

- (e) Fee. There shall be no fee for initiating or terminating Default Service when the initiation or termination is made concurrent with the Local Distribution Company's scheduled meter read, or is involuntary on the part of the Retail Customer.
- (5) Terms and Conditions for Suppliers. Each Local Distribution Company shall file, for Department approval, terms and conditions that will govern the relationship between the Local Distribution Company and Suppliers providing Supplier Service to Retail Customers in the Local Distribution Company's Service Territory.
- (6) Billing and Payment.
- (a) Each Local Distribution Company shall bill its Residential Customers in accordance with 220 CMR 25.00.
 - (b) Each Local Distribution Company shall issue a single Bill, reflecting unbundled rates, to each Retail Customer in its Service Territory receiving Default Service.
 - (c) Each Local Distribution Company shall offer two billing options to a Retail Customer receiving Supplier Service:
 - 1. Passthrough billing, under which the Retail Customer would receive one Bill for Distribution Service, from the Local Distribution Company and a second Bill from the Supplier for Supplier Service and other services provided by the Supplier; and
 - 2. Complete billing, under which the Retail Customer would receive a single Bill from the Local Distribution Company for Distribution Service and Supplier Service provided by the Supplier.
 - (d) Each Local Distribution Company shall inform a Retail Customer when Supplier Service for the Retail Customer has been initiated by a Supplier, along with information on how the Retail Customer may file a complaint regarding an unauthorized initiation of Supplier Service. This information shall be included on the first Local Distribution Company Bill rendered to the Retail Customer after such initiation.
 - (e) Each Local Distribution Company may, as appropriate, require a security deposit from, and impose late payment charges on, Non-Residential Customers in accordance with 220 CMR 26.00.
 - (f) Each Distribution Company shall bill condominium common areas and facilities in accordance with 220 CMR 28.00.
- (7) Termination Protections.
- (a) All Residential Customers shall be protected from termination of Gas Service pursuant to 220 CMR 25.00.

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- (b) Each Local Distribution Company shall remain responsible for determining eligibility for termination protections pursuant to 220 CMR 25.00 and for administering such protections for Retail Customers within its Service Territory.
 - (c) Each Local Distribution Company shall be prohibited from disconnecting or discontinuing Gas Service to a Retail Customer for a disputed amount if that Retail Customer has filed a complaint that is pending with the Department, in accordance with 220 CMR 25.02 and 220 CMR 14.06.
- (8) Disclosure of Customer Usage Information.
- (a) Each Local Distribution Company shall be required to provide a Retail Customer's historic usage information to Suppliers and Retail Agents that have received the required Retail Customer authorization, as established in 220 CMR 14.04(4)(a). The type of usage information shall be as provided in 220 CMR 14.03(8)(a)1. and 2.
 - 1. Demand Customers. For Retail Customers that have been billed at least in part on a demand basis during the 36-month period prior to the release of information, the historic usage information shall include, for the most recent 12 months, the volumetric consumption for each month, and the billing demand level for each month. The Local Distribution Company shall indicate if any of the volumetric and demand measurements were not based on actual recorded usage, and provide a description of the method used to determine the estimated measurements.
 - 2. Volumetric-only Customers. For Retail Customers that have been billed on a volumetric-only basis during the 36-month period prior to the release of information, the historic usage information shall include the monthly volumetric consumption for the most recent 12 months. The Local Distribution Company shall indicate if any of the volumetric measurements were not based on actual recorded usage and provide a description of the method used to determine the estimated measurements.
 - (b) Each Local Distribution Company shall be required to provide a Retail Customer's historic usage information to the Retail Customer, upon the Retail Customer's request. Local Distribution Companies shall be required to exercise best efforts to furnish the data requested by the Retail Customer on a timely basis. The Local Distribution Company shall indicate if any of the usage information was not based on actual recorded usage and provide a description of the method used to determine the estimated usage.
- (9) Dispute Resolution. Disputes between a Retail Customer and a Local Distribution Company shall be resolved in accordance with 220 CMR 25.00 and

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220 CMR 14.06.

- (10) Conducting Business with Unauthorized Entities. A Local Distribution Company may provide services associated with the provision of Supplier Service only to entities that are certified as a Supplier by the Department pursuant to 220 CMR 14.04(2).
- (11) Dissemination of Information. Each Local Distribution Company shall produce information, in the form of a mailing, or other method approved by the Department, to inform consumers about available rebates, discounts, credits, and other cost-saving mechanisms that assist consumers in lowering utility bills. Each Local Distribution Company will disseminate this information no less than semi-annually, and consistent with a plan filed with the Department.

14.04: Supplier and Retail Agent Requirements

- (1) Purpose and Scope. The purpose of 220 CMR 14.04 is to establish the requirements applicable to all Suppliers and Retail Agents.
- (2) Certification Requirements.
 - (a) Scope. 220 CMR 14.04 governs application for initial certification and for renewal of certification.
 - (b) Information Filing Requirements. Before initiating service to Retail Customers, each Applicant shall apply for certification and shall file for review and approval with the Department's Secretary, in such form as is prescribed by the Secretary, a notarized document, signed by two officers of the Applicant, that includes the information identified in 220 CMR 14.04(2)(b), except that a Retail Agent shall not be required to provide the information described in 220 CMR 14.04(2)(b)10. and 13., and further provided that, to the extent that an Applicant is licensed by the Department pursuant to 220 CMR 11.05, such Applicant may incorporate by reference those portions of such application that do not differ from the application to be certified as a Supplier under 220 CMR 14.04:
 - 1. Legal name;
 - 2. Business address;
 - 3. A description of the company's form of ownership. If a corporation, association, or partnership
 - a. the name of the state where organized,
 - b. the date of organization,
 - c. a copy of the Articles of Organization or Incorporation (filed with the Secretary of State under M.G.L. c. 156B or, if incorporated in another state, by the cognizant

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- approving authority established by law) or association, partnership agreement, or other similar document regarding legal organization,
- d. by-laws, and
 - e. the name, address and title of each officer and director, partners, or other similar officers;
4. A statement (with appropriate citation to corporate articles or by-laws or other operative documents) that acting as a Supplier is not an *ultra vires* purpose (beyond the scope) of the entity;
 5. A summary of any history of bankruptcy, dissolution, merger or acquisition of the entity in the two calendar years immediately preceding application;
 6. Name, title, and an 800 or toll-free telephone number of customer service department or contact person available to customers;
 7. Name, title, and telephone number of regulatory contact person;
 8. Name and address of Resident Agent for Service of Process in Massachusetts for purposes of M.G.L. c. 223A, § 3;
 9. Brief description of the nature of business being conducted, including types of customers to be served and geographic area in which services are to be provided;
 10. A statement that the Applicant will comply with 220 CMR 14.05;
 11. Documentation of technical ability to procure and deliver natural gas (such as previous gas resource experience in Massachusetts or as a shipper on interstate pipelines delivering to Massachusetts);
 12. Documentation of financial capability (such as the level of capitalization or corporate parent backing) to provide proposed services;
 13. Documentation that the Supplier is an approved shipper on the upstream pipelines and underground storage facilities used to serve Retail Customers in Massachusetts;
 14. Evidence or documentation of attendance at a Supplier training session to be sponsored by the Massachusetts Local Distribution Companies, as set forth in the Gas Industry EBT Report, on file with the Department;
 15. One sample Bill demonstrating the Applicant's familiarity with 220 CMR 14.04 from each Applicant that plans to bill Retail Customers in accordance with the passthrough billing option, as set forth in 220 CMR 14.03(6)(c)1.;
 16. A statement whether any director, officer, or other similar official has in the five years immediately preceding application been convicted of a felony as defined by M.G.L. c. 274, § 1, or the equivalent law of any other jurisdiction, involving business fraud, or held liable for any antitrust violation pursuant to

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M.G.L. c. 93, c. 93A or the equivalent law of any other jurisdiction and whether the applicant business entity has itself been held liable for business fraud or antitrust violation (including the date and place of conviction or verdict, and nature of offense found); and

17. Declaration under penalties of perjury pursuant to M.G.L. c. 268, § 6, that all statements made in the application are true and complete. The declaration shall include evidence that the declarants are authorized as agents of the Applicant to apply for certification on its behalf.

Applicants are required to file an original application, with two copies and a copy on diskette. Within 30 days of any material or organic (M.G.L. c. 156B) change in the information required, the Applicant shall file updated information with the Department. The Applicant also shall file an updated application annually. If there has been no material or organic change to the relevant information, an Applicant may submit an updated application indicating that there has been no change since the previous application. Any Applicant who knowingly submits misleading, incomplete, or inaccurate information may be penalized in accordance with statute and with the regulations promulgated by the Department.

- (c) Fees. Each Applicant shall pay an annual filing fee of \$100 to the Department.
 - (d) Department Review. The Department will review the information described 220 CMR 14.04(2)(b). The Department will inform the Applicant within 20 business days of submission of a complete application whether the certification application has been approved or rejected. Approved certification applications will be valid for one year from the date of approval.
 - (e) Information Disclosure. As a condition of maintaining or renewing a certificate, each Supplier shall comply with the requirements of 220 CMR 14.05. Failure to comply with 220 CMR 14.05 may result in suspension, revocation, or non-renewal of the Applicant's certificate following a hearing before the Department in conformance with M.G.L. c. 30A.
- (3) Billing and Termination of Supplier Service Requirements. Each Supplier shall comply with 220 CMR 25.00, 27.00, 28.00, and 29.00 as provided in 220 CMR 14.04(3).
- (a) Each Bill for Supplier Service shall, at a minimum, separately identify
 1. Gas consumption, and indicate whether the consumption was based on actual recorded usage or estimated usage;
 2. The pricing structure by which the Retail Customer will be billed,

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as shown on the Retail Customer's Terms of Service, as described in 220 CMR 14.05(2); and

3. The total charge for Supplier Service.
- (b) A Supplier that bills a Retail Customer in accordance with the passthrough billing option described in 220 CMR 14.03(6)(c)1., may issue a Bill less frequently than the billing period defined in a Local Distribution Company's terms and conditions for Distribution Service provided that the Bill includes gas consumption information for each billing period and indicates whether the consumption for each billing period was based on actual recorded usage or estimated usage.
 - (c) A Bill for Supplier Service provided to a Residential Customer shall not be considered "due" under 220 CMR 14.00 in less than 45 days from receipt, as defined in 220 CMR 25.01. In those instances when a Supplier issues a Bill less frequently than the billing period defined in a Local Distribution Company's terms and conditions for Distribution Service, pursuant to 220 CMR 14.04(3)(b), the Bill shall not be considered "due" in less time than has elapsed between receipt of the current Bill and receipt of the previous Bill from the Supplier. No disputed portion of the Bill shall be considered "due" if the Retail Customer has filed a complaint that is pending with the Department, in accordance with 220 CMR 25.00 and 220 CMR 14.06.
 - (d) A Supplier may terminate Supplier Service to a Residential Customer during the term of service only if a Bill is not paid within 48 days from receipt, or such longer time as may be permitted by 220 CMR 14.04(3)(c). Prior to termination of Supplier Service, the Supplier shall render a second request for payment not earlier than 27 days after the rendering of the Bill (*i.e.*, the first request for payment). The second request for payment shall state the Supplier's intention to terminate Supplier Service on a date not earlier than 48 days after the Residential Customer's receipt of the Bill. The Supplier shall render a final notice of termination not earlier than 45 days after the Residential Customer's receipt of the Bill. Such notice shall be rendered at least 72 hours, but in no event more than 14 days, prior to termination of Supplier Service. The Supplier may terminate Supplier Service if the Bill remains unpaid on the indicated termination date, except that a Supplier may not terminate Supplier Service to a Residential Customer if the unpaid Bill is the subject of a dispute resolution, in accordance with 220 CMR 25.00 and 220 CMR 14.06.
 - (e) A Supplier must notify a Customer of termination of Supplier Service at least ten days before termination, when such termination is due to reasons other than non-payment. Such notice must be in writing, addressed to the Retail Customer's billing address, and mailed first-class.

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- (4) Customer Authorization Requirements.
- (a) Release of Customer Usage Information. Each Supplier or Retail Agent must obtain verification that a Retail Customer has affirmatively chosen to allow the release of the Retail Customer's historic usage information to the Supplier or Retail Agent, in accordance with 220 CMR 14.04(4)(c).
- (b) Initiation of Service by a Supplier or Retail Agent. Each Supplier and Retail Agent must obtain verification that each Retail Customer choosing a Supplier has affirmatively chosen such entity, in accordance with 220 CMR 14.04(4)(c). No Supplier or Retail Agent may initiate Supplier Service to a Retail Customer without first obtaining said affirmative choice from the Customer.
- (c) Affirmative Choice. For the purposes of 220 CMR 14.04(4)(c), the term "affirmative choice" may be evidenced by a Letter of Authorization signed by the Retail Customer, Third-Party Verification, or the completion of a toll-free call made by the Retail Customer to an independent third party operating in a location physically separate from the telemarketing representative who has obtained the Retail Customer's initial oral authorization to change to a new Supplier, or any other alternative means as established by the Department.
1. Letter of Authorization. For the purposes of 220 CMR 14.04(4)(c)1., the term "Letter of Authorization" means an easily separable document whose sole purpose is to authorize a Supplier to initiate Supplier Service for a Retail Customer. The Letter of Authorization must be signed and dated by the Retail Customer. The Letter of Authorization shall not be combined with inducements of any kind on the same document, except that a perforated "tear-off" section shall be construed as a separate document. At a minimum, the Letter of Authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:
- a. The Retail Customer's billing name and address;
 - b. The decision to change to the prospective Supplier;
 - c. That the Retail Customer understands that no more than one Supplier may be designated to provide Supplier Service to a meter or group of meters at a specific location; and
 - d. If applicable, that the Retail Customer understands that any Supplier selection the Retail Customer chooses may involve a charge to the Retail Customer for changing the Retail Customer's Supplier.

The Letter of Authorization shall not suggest or require that a Retail Customer take some action in order to retain the Retail Customer's

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current Supplier. If any portion of the Letter of Authorization is translated into another language, then all portions of the Letter of Authorization must be translated into that language.

2. Third-Party Verification. For the purposes of 220 CMR 14.04(4)(c)2., the term "Third-Party Verification" means an appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative who has obtained the Retail Customer's oral authorization to change to a new Supplier, such authorization to include appropriate verification data, such as the Retail Customer's date of birth and social security number or other voluntarily submitted information; provided, however, any such information or data in the possession of the third party verifier or the marketing company shall not be used, in any instance, for commercial or other marketing purposes, and shall not be sold, delivered, or shared with any other party for such purposes.
- (d) Rescission Period. A Supplier may not initiate Supplier Service to a Residential Retail Customer, or to a Non-residential Retail Customer with an annual load of less than or equal to 7,000 therms, choosing the Supplier prior to midnight on the third day following the Retail Customer's receipt of a written confirmation of an agreement to purchase natural gas and a statement entitled "Terms of Service," as described in 220 CMR 14.05(2), during which period the Retail Customer shall have the right to rescind, without charge or penalty, the affirmative choice of Supplier.
- (5) Security Deposits and Late Payment Charges. A Supplier shall be precluded from requiring security deposits or assessing late payment charges from Retail Customers except as specifically provided for in 220 CMR 26.00.

14.05: Information Disclosure Requirements

- (1) Purpose and Scope.
 - (a) Purpose. The purpose of 220 CMR 14.05 is to ensure that Residential and Non-Residential Customers with an annual load of less than or equal to 7,000 therms are presented with consistent information by which to evaluate services offered by Suppliers and Local Distribution Companies.
 - (b) Scope. 220 CMR 14.05 applies to all Suppliers and to Local Distribution Companies as specified in 220 CMR 14.05.
- (2) Terms of Service Requirement. Each Supplier shall prepare a statement entitled "Terms of Service" as described in 220 CMR 14.05(2). The Terms of Service

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shall be distributed in accordance with 220 CMR 14.05(3), and shall conform to all applicable rules and regulations of the Attorney General (940 CMR). The Terms of Service shall present the following information:

- (a) Actual pricing structure according to which the Retail Customer will be billed, including an explanation of price variability and price level adjustments that can cause the price to vary;
- (b) Length and kind of contract;
- (c) Due date of Bills and consequences of late payment;
- (d) Conditions under which a credit agency is contacted;
- (e) Deposit requirements and interest on deposits;
- (f) Limits on warranty and damages;
- (g) Any and all charges, fees, and penalties;
- (h) Information on consumer rights pertaining to third-party billing, deferred payments, and rescission of supplier switch within three days of receipt of confirmation;
- (i) A toll-free number for customer service and complaints;
- (j) Low-income rate eligibility;
- (k) Statement that customers should contact their local distribution company for details on the availability and terms of default service; and
- (l) Method whereby the Retail Customer will be notified of changes to items in the Terms of Service.

(3) Distribution of Terms of Service. The Terms of Service shall be distributed as follows:

- (a) At the same time or immediately subsequent to a Retail Customer's affirmative choice of a Supplier, the Supplier shall provide the Retail Customer with the Terms of Service prepared pursuant to 220 CMR 14.05(2). Said document shall accompany written confirmation by the Supplier of the Retail Customer's agreement to take Supplier Service; and the Retail Customer's receipt of said document shall trigger the three-day rescission period required in 220 CMR 14.04(4)(d).
- (b) Default Service. With the first bill rendered to a Retail Customer following the initiation of Default Service, the Local Distribution Company shall notify the Retail Customer that the tariff for such service and the Local Distribution Company's terms and conditions for Distribution Service are on file with the Department and are available upon request.
- (c) Upon request. The Terms of Service, or terms and conditions, for any available supply offerings shall be available to any person upon request.

(4) Information Disclosure in Advertising.

- (a) All advertisements shall comply with state and federal regulations governing advertising, including the Attorney General's regulations (940

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CMR). The Department does not represent that materials prepared pursuant to 940 CMR constitute compliance with state and federal regulations governing advertising.

- (b) Any advertising or marketing of natural gas rates shall indicate the rate to be charged in bold print, in the case of printed and Internet materials, or through clear and distinct speech in the case of television or radio advertisements.
 - (c) A Supplier shall print in a prominent position in a written marketing materials describing Supplier Service, including newspaper, magazine, and other written advertisements; direct mail materials; and electronically-published advertising including Internet materials, that a Retail Customer may obtain the Terms of Service upon request. Where Supplier Service is marketed in non-print media, the marketing materials shall indicate that the Retail Customer may obtain the Terms of Service upon request.
- (5) Enforcement. Dissemination of inaccurate information, or failure to comply with the Department's regulations on information disclosure, may result in suspension, revocation, or non-renewal of a Supplier's or Retail Agent's certificate pursuant to 220 CMR 14.04(2)(e).

14.06: Complaint and Damage Claim Resolution - Penalties

- (1) Purpose and Scope.
 - (a) Purpose. The purpose of 220 CMR 14.06 is to establish the complaint and dispute resolution procedures and associated penalties applicable to Customer complaints or damage claims between Retail Customers and Local Distribution Companies, Suppliers or Retail Agents.
 - (b) Scope. 220 CMR 14.06 applies to all Local Distribution Companies, Suppliers and Retail Agents doing business in the Commonwealth.
- (2) Liability Claims. A Retail Customer may file a complaint with the Department alleging property damage under \$100.00. The Department will refer any such complaints for mediation and/or arbitration. Any claims for damages will be resolved within 60 days from the date the claim was filed with the Department.
- (3) Unauthorized Initiation of Supplier Service Complaints.
 - (a) Complaint Procedure.
 - 1. A Retail Customer may file a complaint with the Department stating that a Supplier or Retail Agent has initiated Supplier Service to the Retail Customer without first obtaining evidence of the Retail Customer's affirmative choice as defined in 220 CMR 14.04(4)(c). The complaint must be filed within 30 days after the

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statement date of a Bill or notice from the Local Distribution Company indicating that Supplier Service has been initiated by the Supplier or Retail Agent.

2. Within ten business days of filing the complaint, the Retail Customer will receive from the Department a request asking for the following: a copy of the Retail Customer's Bill or notice that included the information regarding the initiation of Supplier Service; the name of the original Supplier or Retail Agent, if applicable; and any other information the Department deems relevant.
 3. The Retail Customer shall, within 15 business days of the Department's notifying the Retail Customer, respond to the Department's request for information.
 4. Within 15 business days of receiving the requested information from the Retail Customer, the Department will send the following:
 - a. A letter to the Retail Customer acknowledging receipt of the information;
 - b. A letter to the Local Distribution Company, original Supplier or Retail Agent informing it of the pending complaint and requesting that information relevant to the initiation of Supplier Service be furnished; and
 - c. A letter informing the new Supplier or Retail Agent of the pending complaint, requesting evidence of the Retail Customer's affirmative choice as defined in 220 CMR 14.04(4)(c) to initiate Supplier Service, and requesting any additional information the Department deems relevant.
 5. The Distribution Company, original Supplier or Retail Agent and the new Supplier or Retail Agent shall respond to the Department's request within five business days from the issuance of said requests.
 6. Within 25 business days after receiving evidence of the Retail Customer's affirmative choice and all relevant information as required herein, the Department will determine if the Retail Customer authorized the new Supplier or Retail Agent to initiate Supplier Service.
- (b) Refunds. If the Department determines that the new Supplier or Retail Agent does not possess the required evidence of the Customer's affirmative choice as defined in 220 CMR 14.04(4)(c), and the new Supplier charged more than the original Supplier, the Department will require the new Supplier to refund the following:
1. To the Customer, the difference between what the Customer would have paid to the Local Distribution Company or previous

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- Supplier and actual charges paid to the new Supplier;
 2. To the Customer, any reasonable expense the Customer incurred in switching back to the Local Distribution Company or original Supplier; and
 3. To the Local Distribution Company or original Supplier, the gross revenue the Local Distribution Company or original Supplier would have received from the Customer during the time the Customer received Supplier Service from the new Supplier.
- (4) Other Customer Complaints.
- (a) All other complaints brought by a Customer against a Local Distribution Company, Supplier or Retail Agent shall follow the procedures set forth in 220 CMR 25.02(4), except as provided in 220 CMR 14.06 (4)(b).
 - (b) Alternative Dispute Resolution.
 1. Each Local Distribution Company, Supplier or Retail Agent shall make available to Customers alternative dispute resolution procedures, including mediation, arbitration, facilitation or other dispute resolution procedures.
 2. Allegation of Unfair or Deceptive Trade Practice. Each Local Distribution Company, Supplier and Retail Agent shall submit to arbitration upon the request of a Customer alleging that an unfair or deceptive trade practice has occurred. The Department also will make a voluntary mediation process available to consenting parties.
 3. Alternative dispute resolution pursuant to 220 CMR 14.06(4)(b)(1) and (2) may only be requested after the Customer and Local Distribution Company, Supplier or Retail Agent have attempted to resolve the dispute pursuant to 220 CMR 25.02(4)(a).
- (5) Penalties. Each Local Distribution Company, Supplier or Retail Agent doing business in Massachusetts shall be subject to a range of sanctions for violations of the Department's regulations. Such sanctions may be imposed only following a hearing before the Department in conformance with M.G.L. c. 30A and 220 CMR 25.00. In the case of egregious misconduct or a pattern of misconduct, the Department may take decertification action against a Supplier or Retail Agent. Such action may result in the Supplier or Retail Agent being:
- (a) Required to notify existing and prospective Customers of probationary status;
 - (b) Prohibited from signing up new Customers for a specified period of time; and/or
 - (c) Subject to suspension, revocation or non-renewal of its license.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

14.07: Exceptions

The Department on its own motion or for good cause shown by a petitioner may grant an exception to any provision of 220 CMR 14.00.

REGULATORY AUTHORITY

220 CMR 14.00: M.G.L. c. 164; c. 25.