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**TERMS AND CONDITIONS OF SERVICE FOR
ELECTRIC DISTRIBUTION UTILITIES**

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TERMS AND CONDITIONS OF SERVICE FOR ELECTRIC DISTRIBUTION UTILITIES

1. Introduction

Regulators in the Newly Independent States often start from scratch. State-owned, vertically-integrated monopolies formerly provided electric service. As NIS governments unbundle and privatize these utilities, however, regulation must serve to protect the consumer in the context of rates and terms and conditions of service offered by distribution utilities.

Hagler Bailly has reviewed a generous sample of terms and conditions of electric service on file with regulators by electric distribution utilities in the states of California, Pennsylvania, Massachusetts, and New York. We have analyzed these terms and conditions to identify the most common matters addressed, and the typical manner in which the terms and conditions state the respective obligations of the utility and the customers. The result is a primer of terms and conditions, suitable for use by NIS regulators as a learning tool in and of itself, but also useful as a standard against which terms and conditions proposed by the new private owners of distribution assets may be measured.

We add a two notes of caution. First, utility service and utility regulation in the United States have evolved for over a century. During that period, terms and conditions of electric service have become detailed and sophisticated, as utilities, regulators, and customers have learned by trial and error and examined many issues in depth. Terms and conditions of electric service on file with U.S. regulators typically run to hundreds of pages. Such detail is perhaps not appropriate for the newly-launched regulators and private electric service providers in the NIS. Simple terms and conditions will serve adequately for a start, and as the relationships between and among distribution utilities, regulators, and customers mature, detail can be added.

Second, we do not mean for this paper to serve as the definitive guide to resolving any single question that might arise respecting terms and conditions of service. Rather, it is meant to provide broad guidance to the regulator. The resolution of individual issues, to the extent that the regulator (or advisor) refers to precedent in the United States, should require additional research.

2. The Rationale for Terms and Conditions of Electric Service

In theory, a distribution utility could have an individual contract with each of its residential, commercial, and industrial customers. In practice, however, this process would prove unmanageable. A distributor could, for example, offer individual contracts to each of its

customers, in which all terms and conditions of service would be stated. Such a procedure would, however, prove difficult from many perspectives, as discussed below.

The advantages of filing terms and conditions of electric service with the regulator are several.

Efficiency and convenience. A distribution company of any size would have difficulty attempting to negotiate individual contracts with residential and small commercial customers. Identifying and finding customers, or their representatives, would be time-consuming. Many customers might have questions about the contracts. Some might want to negotiate individual terms. All of this would require the commitment of significant resources, the costs of which would eventually have to be borne by the ratepayers. And the commitment of resources would continue over time, as new customers request service and old ones discontinued service.

Filing proposed terms and conditions with the regulator, coupled with an opportunity for the public to comment on the proposed terms and conditions, would save time and resources, and also allow the regulator to supervise the process by which rules are developed.

Flexibility. If a distribution utility attempted to execute individual service contracts, then each time the utility wanted to change the terms and conditions of service, it would have to seek to amend all of its customer contracts. If, on the other hand, the utility files the terms and conditions with the regulator, then the regulator may simply adjust the terms and conditions, which would then apply across the board to all customers.

Transparency. If terms and conditions of service are on file with, and approved by, the regulator, then the public will have full access to those terms and conditions, and the assurance that they apply to all customers equally.

3. Standard Terms and Conditions of Service

General Provisions

Service territory

The utility's rules typically define the service area of the distribution enterprise. The service area may be the same as the city or municipal limits of the urban area served by the utility, and in that case the rule may so state. If, however, the service area is larger (or smaller) than the city limits, then the rules may refer to a map which is kept on file with the regulator, and which may be amended from time to time.

The utility's service area is important for at least two reasons. First, potential customers must have a way of knowing which utility they should contact to request service. Second, it is common that distribution utilities have an exclusive franchise within their service areas. In exchange for this exclusivity, the distribution utility agrees to comprehensive regulation of its rates and the terms and conditions of service. This exclusivity is designed to protect the utility's

investment in distribution facilities. If anyone could compete for retail service within that area, then the utility's investment would be threatened, especially because the competitor would seek to serve the highest-volume customers. This exclusivity of service might be reflected in law, or in the license or certificate authorizing the distribution service. Wherever reflected, it represents a sound principle of utility regulation.¹

Definitions

The terms and conditions of service may have a definitions section, if only to refer to the definitions stated in the law or the regulator's rules and regulations.

General

Distribution rules commonly address a number of general matters.

- ◆ The utility's business address, telephone number(s), and the identity of persons or organizations within the company to contact for certain matters (such as request for new service or to report a possibly dangerous condition).
- ◆ The utility will provide electric service only under the terms and conditions of the rules. The utility will provide no discounts for service unless the discount is reflected in the rules.
- ◆ Electric service is contingent on payment for service. The utility will charge for service based on metered consumption. Flat rates for stable loads (such as traffic lights and street lights) or unmetered customers must be reflected in the rules.
- ◆ Gratuities to the utility's employees by customers are prohibited. In other words, utility employees may not accept anything of value from a customer for any reason.
- ◆ Contracts for electric service are binding on the successors of the utility and the customer.
- ◆ Notices from or to the utility and the customer must be in writing as to certain matters, but may be oral (by telephone or in person) for others.
- ◆ The utility must annually provide each customer with a written statement of the respective responsibilities of the utility and the customer.

¹ Some places in the United States and certain other countries have introduced retail competition, in which two or more sellers compete for sales directly to consumers, and distribution companies are compensated for transmitting electricity. Where retail competition prevails, prices are not regulated. The Georgian electric sector may, someday, be appropriate for this approach, but the time is still some way off.

- ◆ The utility's failure to enforce any provision of the rules or of contracts with respect to any customer does not represent a waiver of the utility's rights under those rules or contracts.

Service to Customers

Terms and conditions of service to customers commonly focus on three areas: commencement of service; billing; and termination of service. As noted above, in the West, utilities commonly do not have contracts with individual residential or small commercial customers. Rather, the fundamental conditions of service, including the rights and responsibilities of each party, are commonly reflected in the terms and conditions on file with the regulator.

Commencement of service

Applications for service. The customer commonly initiates the process of obtaining service by making a request for service. Utility rules commonly provide as follows.

- ◆ Residential customers may usually request service with a telephone call. Other customers must submit the request for service in writing.
- ◆ The customer must, at a minimum, provide the name of the individual (or, for commercial accounts, company) who will be responsible for the account, along with the address at which service will be provided, and the prior address of the individual or company requesting service (for checking credit-worthiness).
- ◆ The customer should specify the type of service requested and any special type of equipment necessary to provide the service.
- ◆ The customer should select the billing option, if there is more than one.
- ◆ The rules specify the period within which the utility must respond to requests for service.
- ◆ The utility may deny a request for service only for reasons permitted in the rules. A common basis for denial is that the customer has unpaid bills from another location. In such case, the utility may require a deposit or some other type of credit prior to (and as a condition to) commencing service, as further discussed below. Another basis is that the location at which service is requested is known to conflict with technical or safety standards.
- ◆ Where the utility denies a request for service, the rules provide that the customer may file a complaint or otherwise request review of the denial with the regulator.

- ◆ The rules may, but usually do not, provide for an application or connection fee, to cover the utility's incremental cost of initiating new service at an existing home or building to the requesting customer.

Rate schedules and options. With respect to rates, rules generally provide:

- ◆ The only rates that the utility may charge are those approved by and on file with the regulator.
- ◆ The utility is normally required to inform the customer of its options regarding rates at the time that it requests service.
- ◆ The utility may be required to notify customers if new rate options become available.
- ◆ Customers may not change their rate option more than once a year.

Credit requirements. Commencement of electric service normally does not require the customer to establish credit or post a deposit. In some cases, however, the utility may require such credit or deposit, and the rules will identify:

- ◆ The types of customers that must establish credit by posting security or otherwise, the most common being those who owe money for unpaid bills at the same or another location.
- ◆ Whether the form of credit will be limited to deposits or whether other forms of security (such as guarantees) will be accepted.
- ◆ The level of deposit required, the norm being an amount equal to an estimate of two months' service at the location in question.
- ◆ The circumstances under which the utility may review the amount of the deposit, and whether (and if so, how) the customer may request a review of the amount of the deposit.
- ◆ Whether interest accrues on deposits, and if so how and when it is paid or credited to the customer.
- ◆ When the utility must return deposits to the customer. Rules commonly provide that the utility must return the customer's deposit when service is terminated, or after the customer has made timely payments for two years.
- ◆ The utility may apply the deposit to cover unpaid bills.

Billing

Rendering and payment of bills. Rules of utility service typically specify the details of the billing and payments process, as follows:

- ◆ Contents of bills, including, as appropriate, location of service, kilowatt hours consumed, rate for consumption, and such other matters as the regulator, the utility, and consumers deem appropriate.
- ◆ Timing of bills, usually once a month. Large distribution enterprises normally send bills out each business day to a group of customers, to levelize the billing effort and cash flow throughout the month, instead of at the end of the calendar month.
- ◆ Whether bills are based on metered data, or represent estimates. Estimates are often used when customers are so widely dispersed or difficult to access that meter-reading is expensive on a per-customer basis. In such cases, the utility will estimate electric usage based on past consumption patterns, and adjust the bills upward or downward when the meters are read, which the utility will do several times a year, as specified in the rules. In urban locations, however, meters are usually read once a month.
- ◆ Bills are due when presented to the customer.
- ◆ Bills are past due within a specified number of days after mailing, usually 20 or 30 days. The rules provide that if the due date falls on a weekend or legal holiday, then the overdue date is the next business day.
- ◆ The rules may permit the utility to impose a charge for late payments, or apply interest to unpaid balances.

Billing disputes and errors. The rules will define how billing disputes should be resolved and billing errors corrected.

For disputed bills, rules typically provide:

- ◆ The customer must notify the utility of the dispute in the manner specified in the rules. While the dispute is being resolved, the customer must pay the undisputed part of the bills and all subsequent undisputed bills. The rules may provide that in order to avoid disconnection for nonpayment, the customer pays the disputed part of the bill to the regulator, which in such case usually maintains a separate bank account for that purpose.
- ◆ If the utility and the customer cannot resolve the dispute, then the matter is usually referred to the regulator for disposition (pursuant to existing dispute resolution procedures, often handled by staff).

- ◆ For billing errors in California, utilities must refund overcharges for the three prior years. For billing errors resulting in undercharges, the utilities may recover from residential customers only for the three prior months, but for non-residential, it may recover undercharges for the three prior years. The basic reason for these limits on recovery for billing errors is that billing is controlled by the utility, and there should be limits to the economic burden that the consumer is asked to bear for the utility's billing errors.

For metering errors, the rules typically provide:

- ◆ The basis for adjustment for meter errors:
 - ◆ Adjustments are not permitted for errors above or below the accuracy limits of the meter.
 - ◆ If the utility can identify the degree of error, then it may charge the customer (or grant a refund) based on metered quantities adjusted for the error.
 - ◆ If the meter fails, then the utility may charge on the basis of historic use (or some other reasonable basis)
- ◆ There are limits on the periods for which the utility may charge customers for undercollection based on meter error, although these limits differ from one jurisdiction to another. In New York, for example, the utility must present the bill for past-due amounts within six months of learning about the error, and cannot bill for undercollections for more than a two-year period. In California, utilities may recover for meters that are 25% or more slow only for the prior three months, although for meters that are slow by between 2% and 25% they may recover for the prior three years. If the meter is fast, the utility must refund for the prior six-month period. As with billing errors, the reason for these limits is that meters are under the control of the utility, and the degree of the burden that consumers are asked to bear should be limited.
- ◆ Rules generally do not provide for interest on refunds or surcharges.
- ◆ A customer's failure to switch to a more favorable rate does not represent a billing error. If, in other words, a customer has for some time been eligible for a cheaper rate but has failed to request that rate, then it may not request a refund for the past period. This principle is most relevant to industrial and commercial customers, because all of a utility's residential customers are usually subject to the same rate. Nonetheless, residential customers may qualify for discounts if, for example, they volunteer for load management, which allows the utility to limit the customer's consumption during periods of high load.

Termination and restoration of service

Termination requested by customer. Rules typically specify:

- ◆ A minimum period for the request for termination of service to become effective (three to five days, to give the utility time to disconnect service). The customer will be liable for service during that period, but not after it.
- ◆ Whether the request may be oral (by telephone) or in writing. For residential service, termination may usually be requested by telephone.
- ◆ Procedures for presentation and payment of the final bill, including when the utility must present the final bill. The utility is required to refund any deposits to the customer. The rules may provide that, where the customer has made a deposit, the utility may deduct the final bill and forward the balance to the customer.
- ◆ Some large-load commercial or industrial customers may be subject to minimum service periods or termination fees. For these customers the rules may provide, to the extent not covered by contract, the payment of such minimum revenue guarantees or termination penalties.

Disconnection by the utility. Service rules always describe the procedures for disconnection by the utility.

- ◆ Utilities are permitted to disconnect customers only for certain defined reasons, among them:
 - ◆ Nonpayment of bill, if beyond the due date. Usually, rules require that the utility give the customer notice of intent to disconnect, and an opportunity to pay the past-due amount.
 - ◆ Failure to provide access to the customer's premises as necessary for service, including meter reading.
 - ◆ Unauthorized use of, or tampering with, the utility's equipment (including the meter), or the existence of unsafe or hazardous conditions. These conditions often do not require the utility to give notice prior to disconnection, the point being that elimination of any hazards to life or property is more important than the customer's electric service.
- ◆ A customer's non-compliance with tariffs or rules (generally does not apply to residential customers)

- ◆ Fraud in the customer's application for electric service (generally does not apply to residential customers; if a customer misrepresents its identity to avoid a credit check and the utility discovers the misrepresentation, then the solution may be to require the customer to post a deposit).
- ◆ Where the rules require the utility to give notice of intent to terminate, they usually require a detailed procedure:
 - ◆ Contents of notice.
 - ◆ The notice must state the date on which service will be terminated.
 - ◆ Service may not be terminated on a weekend or holiday, or when the utility or the regulator's offices are closed.
 - ◆ The utility may not be permitted to terminate service in certain harsh winter conditions (defined in the rule, usually with reference to outside temperatures) or when the customer, or a person living at the service address, suffers from certain medical conditions (the customer must, however, have made these medical conditions known to the utility).
- ◆ Sometimes the rules provide procedures for special cases, as for example where the landlord of a multi-family apartment building fails to pay the electricity bill.
- ◆ Invariably, the rules provide that the utility will not be liable for any damage caused by disconnection in accordance with the rules.

Reconnection. Service rules commonly provide procedures for reconnection after the utility has terminated service.

- ◆ If the utility disconnected the customer for non-payment, the utility must reconnect the customer within a specified number of days following payment of the past-due amount. The utility may require the customer to post a deposit prior to reconnection or restoration of service.
- ◆ If the utility disconnected the customer for other reasons such as the existence of hazardous conditions, then the utility must reconnect within a specified number of days after the customer has remedied the condition, and the utility has had a reasonable opportunity to inspect the premises.
- ◆ The utility may charge a reconnection fee, to cover the utility's incremental cost of disconnection and reconnection.

Conditions of service

Technical standards

General. Rules typically specify: ‘

- ◆ Voltage and frequency at which service will be provided. Often, the rules identify a bandwidth, with acceptable variations.
- ◆ Type of current (alternating).
- ◆ Level of load permitted on particular transformers.

Technical and use requirements applicable to customers. Utilities do not, as a rule, impose numerous technical standards on residential customers; normally, in the United States, rules require only that residential houses or apartment buildings have passed relevant government inspections for buildings, and that the utility reserves the right to inspect a customer’s premises to determine if unsafe conditions exist. Thus, many of the standards that follow apply only to commercial or industrial customers, although some apply to all customers.

- ◆ The utility will deliver electricity to a single point through an appropriate meter. Service lines and wiring must meet any applicable codes and standards established by law.
- ◆ Customer equipment must meet minimum standards and applicable codes, and the customer must maintain electric equipment in good repair.
- ◆ If a customer requires better than normal service (for example, unusually stable voltage), then it must install appropriate equipment at its own expense.
- ◆ The customer is responsible for installation of any appropriate protective devices.
- ◆ The customer may not cause undue disturbances that would impair the utility’s equipment or service to other customers.
- ◆ Customers must notify the utility of significant changes in equipment and use (relevant only to large commercial and industrial customers).
- ◆ The customer must meet minimum rules for supply lines and customer wiring, and other technical standards for interconnection. Interconnection criteria are often contained in a separate document.
- ◆ The customer must provide adequate, secure housing for utility equipment, including the meter, at a location accessible to the utility.

- ◆ The customer's facilities must pass government building inspection.
- ◆ The utility provides service facilities, meter transformer, meter, and related equipment.
- ◆ The utility will supply, at its cost, a service line with a maximum length (or cost of connection). Service lines longer (or more expensive) than the utility-provided portion must be provided or paid for by the customer.

Metering

Rules commonly address metering:

- ◆ The utility is responsible for metering. The utility will install, own, and maintain meters.
- ◆ The type of meter (defined by appropriate technical standards) for each customer class is defined.
- ◆ Procedures for installing and sealing meters. Also, procedures and standards for testing and for acceptable accuracy. In the United States, meters must be between 2% and 3% accurate. All meters are tested at intervals of several years. A customer may request that a meter be tested sooner than scheduled, but if the test shows the meter to be accurate, the customer must pay for the test.
- ◆ Frequency of meter reading. The utility will normally read non-hourly meters once a month
- ◆ If a meter is inoperable or for some other reason cannot be read, then the utility may estimate usage based on, for example, historical usage. Rules generally limit the maximum number of consecutive bills based on an estimate to three to six months.

Continuity of service and utility liability

Rules typically provide:

- ◆ The utility does not guarantee continuity of service.
- ◆ The utility has the right to discontinue service, on a limited basis, for maintenance. In such cases, the utility must give written notice, as provided in the rule. If an outage is unscheduled, the utility may be required to provide a written explanation of the outage to the affected customers.
- ◆ The utility has the right to discontinue service without notice in an emergency.
- ◆ The utility has limited liability for outages:

- ◆ If the outage is not caused by the utility's negligence or is caused by force majeure, then the utility is not liable.
- ◆ The utility is not liable for consequential economic damages, such as loss of business.
- ◆ The utility's liability may be limited to a factor of x times the customer's monthly bill.
- ◆ Customer bills may be adjusted for service outages. For example, demand charges may be reduced in extended outages.
- ◆ The rules may include curtailment rules to control supply during outages.

Installation and maintenance of utility property.

Rules commonly address issues relating to utility property:

- ◆ Define the boundary between utility and customer property.
- ◆ The utility is obligated to maintain its property located on customer property,
- ◆ The customer, for its part, must provide the utility access for that purpose, provided that utility personnel properly identify themselves.
- ◆ The customer should not tamper with utility property, and will be liable for damage to that equipment.
- ◆ The customer may request the utility to relocate utility property. Usually, any such relocation is at the expense of the customer.

Complaint procedures

The rules and regulations invariably provide the procedure under which disputes between the utility and its customers may be resolved by the regulator, including whether complaints must be in writing or may be oral, how they should be directed to the regulator (and to whom), and what procedure will be used to resolve the complaint.

Conclusion

The foregoing provides the basics for terms and conditions of electric service.