

Chapter 6

Utilities

Legal Tactics: Tenants' Rights in Massachusetts
Eighth Edition, May 2017

Utility Rights and Programs - Pullout	93
The Department of Public Utilities	95
Your Right to Obtain Service	96
1. Who Pays for Utilities	
2. If You Owe Money from a Previous Address	
3. Deposits	
4. Installation Fees	
Your Right to Continued Service.....	98
1. Limited Grounds for Termination of Service	
2. Your Landlord Fails to Pay	
Special Protections Against Shut-offs.....	99
1. Serious Illness or Personal Safety	
2. Winter Protection	
3. Families with Infants	
4. Elderly Households	
What to Do to Restore Your Service	101
1. If You Qualify for a Special Protection	
2. If the Company Did Not Follow Proper Procedures	
3. If You Are Trying to Set Up an Account at a New Address	
Your Rights During the Termination Process.....	102
1. Electric, Gas, and Water	
2. Telephone	
Getting Help Paying Your Bills	103
1. Payment Plans	
2. Discount Rates	
3. Arrearage Management Programs	
4. Fuel Assistance Program	
5. Private Sources	
6. Relocation Benefits	

Lowering Your Bills Further 106
1. Continuous Level Billing
2. Weatherization and Heating System Programs
3. Getting Repairs Made

Common Problems 107
1. Another Person's Bill
2. Estimated Bills
3. Excessively High Bills and Illegal Metering Problems
4. Who's Responsible for Paying Bills

Special Rules for Tenants Living in Condominiums 109

**Fiscal Year 2017 Low Income Home Energy Assistance
Program Income Eligibility Chart 110**

Utility Rights and Programs

Tenants' Rights in Massachusetts

Who Pays the Utilities?

The landlord **must** pay:

- **Hot Water and Heat:** Unless the lease says you pay.
- **Gas and Electricity:** Unless you signed an agreement that says you pay and there is a separate meter for your apartment.
- **Water:** Unless you signed an agreement that says you pay and there is a separate meter. Also the landlord must have a certificate that shows that there are low-flow fixtures in your apartment.

When You Move In

If you have to pay for gas or electricity, contact the gas or electric company. Most

Protect Yourself Help Paying the Bill

Private electric and gas companies offer discounts if you get government assistance like SSI, Food Stamps, or Head Start.

If you need help paying heating bills, find out if you qualify for the Fuel Assistance Program. Call 800-632-8175.

Utility companies also have special programs to help you pay past due bills. These are **Arrearage Management Programs**. If you qualify, every time you pay a bill on time, they give you a credit on your past due bill.

utility companies allow you to ask for new service over the telephone. Some companies may require you to fill out a form.

You have the right to gas and electric service, but certain rules apply if you owe a utility bill at a previous address.

If You Owe a Utility Bill

Gas and Electricity

If you owe a gas or electric bill from a previous apartment, the company may ask you to pay the bill off before they turn on new service. They may also agree to a reasonable payment plan. You can contact the company directly and negotiate your own payment plan. **Do not agree to pay an amount you cannot afford.**

If a utility company refuses to turn on the new service, they may ask you to sign a *Cromwell Waiver*. This form gives the company permission to add your unpaid bill to your new bill and set up a payment plan. If you do not pay your new bill, they can turn off your service. Do not sign a *Cromwell Waiver* if the bill from the previous address is wrong or it is not yours.

If a company refuses to set up a payment plan or sign a *Cromwell Waiver*, call the Department of Public Utilities Hotline at 877-886-5066 and ask them to help you.



Cell Telephone

If you owe money to a cell phone company, you can set up a new account by negotiating a plan to pay off what you owe. If a company will not agree to a payment plan, call the Department of Telecommunications and Cable consumer line at 800-392-6066.

Protection Against Shutoffs

Resolving a Dispute with the Company:

If a utility company does not fix a problem to your satisfaction, ask the company to protect your service until they resolve the dispute. If they have not already shut off your service, they cannot shut it off while they are resolving the dispute.

Landlord Fails to Pay: If your landlord is responsible for utilities and fails to pay, a company must give you at least 30 days notice before they can shut off your service.

You Fail to Pay at Your Current Address:

A utility company can only shut off your service if you fail to pay your bill at your current address. They cannot shut off your services for charges from a prior address or for money a prior tenant owes.

Special Protections: If your household has a low-income, a utility company must not shut off your services if anyone:

- Is under 12 months or older than 65,
- Has a serious or chronic illness like diabetes, ADHD, asthma, or
- You cannot afford to pay for heat for the winter months – November to March and sometimes to April.

Ask the company for a *hardship application*.

**If the utility company does not help you call the Department of Public Utilities
1-877-886-5066**

Phone Service Help

If you have a low-income, special services and programs can help you pay your phone bill and keep basic phone service.

- **You can get 90 days to pay your phone bill** if someone in your house has a serious illness. Also, if someone has a personal emergency and needs a phone, you can get up to 30 extra days.
- **You may be able to negotiate a payment plan** if you ask the phone company. If they will not accept a reasonable payment plan, call the Dept. of Telecommunications and Cable at 800-392-6066. Tell them you need an advocate to negotiate a plan.
- **You can get your deposit back** if you pay all your phone bills on time for 6 months. After 6 months, ask the phone company for your deposit, plus interest.
- **You can get a discount each month** if you get government assistance like SSI, Food Stamps, and Head Start. Apply to your phone company.
- The **Lifeline program** provides a landline, cell phone or internet service at a reduced cost. Call your phone company to apply. If do not have a phone or your phone company does not offer Lifeline call the Dept. of Telecommunications and Cable consumer line at 800-392-6066.

MassLegalHelp.org/Utilities

Legal Tactics: Tenants Rights in Massachusetts
May 2017

Utilities

by Jen Bosco

Italicized words are in the Glossary

If you are having a problem with your utility company, you need to arm yourself with the right information. In many situations, you will be able to resolve the problem yourself.

In other situations, you may be able to get help from the Department of Public Utilities (DPU), the state agency responsible for regulating utility companies.

This chapter will focus primarily on your rights in dealing with the electric, gas, and water companies. Also included is some limited information about dealing with wireline telephone companies, which are regulated by the state Department of Telecommunications and Cable. Note that wireless phone companies' prices or practices, and some fiber optic land line service, are generally not regulated.

For further in-depth information about the rights of utility consumers in Massachusetts and practical advice on how to address problems, see National Consumer Law Center's "Utilities Advocacy for Low-Income Households in Massachusetts" (3rd Ed.), available at: www.nclc.org/images/pdf/energy_utility_telecom/stay%20connected/utility-handbook-2d-ed.pdf.

The Department of Public Utilities

The Department of Public Utilities (DPU) is the state agency responsible for regulating utility companies. DPU regulates gas, electric, and privately owned water companies (but not municipal water companies).¹ Telephone companies are regulated by the Department of Telecommunications and Cable (DTC) and

operate under a slightly different set of regulations.²

The DPU has a special consumer hotline staffed by advocates who are trained to help consumers when companies do not follow the law or refuse to make reasonable agreements. DPU's advocates are not lawyers, and they will not represent you. However, DPU advocates are able to resolve many of the problems that customers have with utility companies.

Before calling the DPU consumer line, you must first try to resolve your problem directly with the utility company. You can do this by calling the company's Customer Service number or writing the company a letter. If this fails to resolve the

Consumer Hotline

How to Reach the Department of Public Utilities

The Department of Public Utilities (DPU) is the state agency responsible for regulating utility companies. In addition to regulating the quality of service, the DPU investigates problems and has procedures to help you resolve problems.

1-877-886-5066

Department of Public Utilities
Consumer Division
1 South Station
Boston, MA 02110

For [On-Line DPU Complaint Form](http://www.mass.gov/eea/energy-utilities-clean-tech/consumer-assistance/consumer-complaint/consumer-complaint-form.html) go to: www.mass.gov/eea/energy-utilities-clean-tech/consumer-assistance/consumer-complaint/consumer-complaint-form.html

problem, call the DPU Consumer Division and explain the problem, providing as many details as possible.

If the DPU advocate cannot help you, you can try speaking to a DPU Consumer Division supervisor. As a last resort, you have the right to request a *hearing* against the utility company with a neutral hearing officer supplied by the DPU. The utility company cannot terminate your service while an *appeal* is pending on a disputed bill.³

Your Right to Obtain Service

When you move into an apartment, you have the right to receive gas and electric service upon request, although special rules apply if you owe the utility company money from a prior address. Most companies will allow you to request new service by telephone. Some companies may require you to sign an application form.

Some companies refuse to serve people under 18 years old, even if they are living in their own home. There is no legal basis for refusing service to a minor. If a company refuses you service for this reason, call the DPU.⁴

Tenants also have the right to water service and a landlord is required by law to keep the water systems for a rental unit in good working order.⁵

1. Who Pays for Utilities

The following chart tells you when you are responsible for paying utilities and when your landlord is responsible.

Type of Utility	Who Pays
Water	Landlord is usually required to pay. For more information see When Can a Tenant Be Billed for Water . ⁶
Fuel for Hot Water	Landlord must pay unless a written lease says the tenant must pay. ⁷
Fuel for Heat	Landlord must pay unless a written lease says the tenant must pay. ⁸
Electricity and Gas	Landlord must pay unless there is a meter that separately calculates the tenant's electricity or gas use <i>and</i> a written document says the tenant must pay. ⁹

2. If You Owe Money from a Previous Address

a. Electric and Gas

If you owe an electric or gas company money from a previous address, the company may say that it will not set up an account at your new address unless you pay the full amount owed (the *arrearage*) or arrange a payment plan satisfactory to the company. The companies often require payment of at least half the arrearage up-front, and sometimes much more than half. However, if you never failed to pay two or more bills in a row at your prior address, you have a legal right to set up a new account so long as you agree to pay off the total amount owed within three months.¹⁰

If you did go two or more months at your prior address without paying your bill, the company may still have to set up a new account for you as long as you do the following:

- Agree that the company may add the arrearage from your old address to your new account,
- Set up a reasonable payment plan to pay it off, and
- Give the company permission to terminate your new account if you fail to keep to the payment plan.

To make this agreement and set up a new account, ask to sign a "Cromwell Waiver." This is a document that gives the electric or gas company the permission to add the old arrearage to your new account and to terminate your new account if you do not pay it off, which the company would not otherwise be able to do.

You should **only sign a Cromwell Waiver** if you have an old arrearage that is causing the utility company to deny you service at your new address.

Once you sign the Cromwell Waiver, you need to set up a payment plan. The company must agree to a payment plan that is reasonable, taking your income level into consideration. For tips on setting up a plan, see the section in this chapter on **Getting Help Paying Your Bills**. If you qualify for a special protection, you should tell this to the utility company. See the section in this chapter on **Special Protections Against Shut-offs**.

If the gas or electric company refuses to let you sign a Cromwell Waiver and set up a reasonable payment plan to dispose of your old arrearage, call the DPU consumer line for assistance.¹¹

b. Wireline Telephone

Wireline telephone companies are more resistant to setting up new accounts for customers who owe money on old accounts. There are no rules specifically addressing the situation of customers seeking new service who owe the phone company

money from a prior address. You also may be able to set up a new account by negotiating a payment plan with the telephone company to pay off what you owe. If the company will not agree to a payment plan that is reasonable based on your income, call the DTC consumer line, 800-392-6066. A DTC consumer advocate may be able to help you negotiate a better plan.

3. Deposits

a. Electric and Gas

A company cannot charge you a deposit for residential electric and gas when you first receive service.¹²

b. Wireline Telephone

A wireline telephone company may charge you a deposit of up to \$50 if you owe them money from an old address and if you do not dispute the old bill. The telephone company may also require a deposit if you were previously shut off for failing to pay your bills. If you do pay a deposit and then pay your bills on time for six months, the telephone company must return your deposit, with interest, upon your request.¹³

4. Installation Fees

a. Electric and Gas

Electric and gas companies generally do not charge installation fees to connect your services.¹⁴

b. Wireline Telephone

The telephone company routinely charges fees to connect a wireline telephone (as opposed to wireless) in your house to the central office. They also routinely charge for any requests you make for service, home wiring, or additional jacks. For a list of these charges, contact the phone company.

Note that if your income is at or below 135% of the federal poverty guidelines, or if you receive TAFDC, EAEDC, SSI, MassHealth Basic or

Standard, SNAP (formerly Food Stamps), LIHEAP (fuel assistance), free school lunch, Head Start, Veteran's assistance or federal housing assistance, you may qualify for the "Lifeline" program. The Lifeline program provides internet, landline phone or mobile phone service at a reduced cost.

For more information about the Lifeline program, go to: www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/telecommunications-division/consumer-info/link-up-and-lifeline-what-consumers-should-know.html.

Your Right to Continued Service

1. Limited Grounds for Termination of Service

The only reason your service can be shut off is for failure to pay for service at your current address.¹⁵ (Also note that you may be able to get terminated service restored even if you owe money from your current address; see the section in this chapter on **Special Protections Against Shut-offs**).

You cannot be shut off for charges owed from a prior address or for money owed by a prior occupant.¹⁶ You also cannot be shut off for non-service-related charges such as rental fees on appliances purchased from a utility company or charges for repair work performed by the utility company.¹⁷

2. Your Landlord Fails to Pay

If a landlord is responsible for the electricity or gas in your building and fails to pay the bills, a company cannot shut off service in the building until the tenants have been given at least 30 days' notice.¹⁸ Because many of these landlord-tenant cases can become very complicated, you should immediately call the DPU if you are in this situation and also try to get legal help. Do not expect to get legal help from the DPU.

Tenants can avoid the shut-off by banding together and agreeing to pay a "projected bill." You have a right to deduct from your rent any payments you make to the utility company, and you are protected from *retaliation* by the landlord. If you withhold rent for this purpose, you may also ask the DPU to establish a payment plan.

Tenants generally cannot be held responsible for any portion of the landlord's previous bills. The utility company can petition for a *hearing* at the DPU to show that the tenants should pay part or all of the previous bills, but to win such a hearing the company has to prove that the tenants withheld more rent than it would take to pay the bills, that the tenants had no other reason for withholding rent, and that it would not be an undue burden for the tenants to pay the bills.¹⁹

The failure of a landlord to pay for and provide utilities to tenants will usually violate other state housing laws. For example, if a landlord does not provide electricity or gas for heat during the winter, she is violating the state Sanitary Code. Tenants who bring lawsuits against landlords for these violations can win up to three months' rent and attorneys' fees. Tenants may also want to ask the court to appoint a temporary landlord called a *receiver* to manage the building. For more information on receiverships, see **Chapter 11: Receiverships**.

Special Protections Against Shut-offs

Customers are often protected against a utility company's shutting off or terminating their service, even if they cannot afford to pay their bills. These special protections are discussed below.

1. Serious Illness or Personal Safety

a. Electric, Gas, and Water

Electric, gas, and private water companies²⁰ cannot shut off your service if you, your child, or someone else in your household is seriously ill and you cannot afford to pay your bills because of financial hardship.²¹ The utility companies must treat any medical condition that a doctor considers a serious illness as a serious illness. Serious illness can include psychiatric health problems such as major depression, anxiety disorder, Post-Traumatic Stress Disorder (PTSD), and Attention Deficit Hyperactivity Disorder (ADHD). It can also include chronic physical health problems such as diabetes, asthma, and fibromyalgia. Or, it can be a temporary serious illness such as pneumonia or the flu.

To protect yourself against a shut-off, you should take the following steps as soon as possible:

- Contact your doctor, physician's assistant, nurse practitioner, or the local Board of Health and explain your situation. Ask them to immediately contact the utility company by phone and tell the company that you are or someone in your household is seriously ill. Make sure the doctor or Board of Health has your name and address to give to the utility.

Within seven days of this initial phone contact, the doctor or Board of Health must send a letter to the utility company certifying the illness. See the sample letter (**Form 6**) and sample form letter (**Form 7**) that can be given to your doctor to fill out. Tell your

doctor to include the words "serious illness" in the letter and to describe the illness. If it is a chronic or long-term illness, the doctor should include the words "chronic illness" in the letter. A letter that states that the illness is a "chronic illness" will result in 180 days of protection before you have to renew, while a letter that does not state this will result in only 90 days of protection. If you are uncomfortable having the utility know the type of illness, a letter from the medical practitioner that simply includes the words "serious illness" or "chronic" may be sufficient.

Note: If the company refuses to honor the initial phone call from the doctor, physician's assistant, nurse practitioner, or Board of Health, report this immediately to the DPU's Consumer Division and request that the DPU order the company to continue your service.

- Contact the company and ask them to send you a financial hardship form. You must complete and submit this form as proof that you are unable to pay the amount you owe.
- Your doctor, physician's assistant, nurse practitioner, or the Board of Health will need to send a new letter at the end of the protected period (180 days for an illness certified as chronic and 90 days for an illness not certified as chronic). Serious illness letters can be renewed for as long as the illness persists.

b. Wireline Telephone

Some land line telephone customers are eligible for a similar "serious illness" protection.²² However, the doctor's letter must be renewed every 30 days even if the illness is specified as chronic, with a maximum of two renewals (a maximum total of 90 days of protection). By the end of the protection period, you must either pay the total amount owed or enter into a payment plan with the company in order to prevent shut-off.

You can also receive up to 30 days of protection when there is a "personal emergency" in which lack of access to a phone endangers the health or safety of a household member.²³

A personal emergency can include domestic violence or threats from a past abuser, or any other crisis or threat that requires access to a phone. If you need protection from shut-off because of an emergency, you must write a letter to the company explaining your emergency and why you are unable to pay your bills. You should also call the company and alert a Customer Service representative to your situation. By the end of the 30-day protection period, you must either pay the amount that you owe or enter into a payment plan with the company.

If you have difficulty getting a phone company to protect your account from shut-off based on a serious illness or personal emergency, call the DTC Consumer Division. Even though there are regulations that set certain time limits as to when the telephone company is required to give protection, if you need protection you should try to persuade the company to extend the protection period.

2. Winter Protection

Electric and Gas

Electric and gas companies cannot shut off your service between November 15 and March 15 if you cannot afford to pay your utility bills and if the service is used to heat your house. (This March 15 end-date is often extended to April 1 by the DPU). To get the protection, you need only to fill out a financial hardship form.²⁴

If you think you may have trouble paying winter heat bills, call your company and ask them to send you a financial hardship form. Fill it out and return it as soon as possible. After you do this, you are protected against a shut-off between November 15 and March 15 (or a later date, if the DPU extends the winter moratorium).

3. Families with Infants

Electric, Gas, and Water

Electric, gas, and private water companies cannot shut off your service if you cannot afford to pay your bill and if there is an infant under one year old living in your house.²⁵ To get this protection, you must submit a financial hardship form. You must also prove your child's age, through a birth certificate, letter, or official document from a physician, hospital, government agency, clergyman, or religious institution.

4. Elderly Households

Electric, Gas, Water, and Telephone

If you and all the adult members of your household are 65 years or older, it is very difficult for a company to shut off utility service—so difficult that it almost never happens. (If the elderly household is also low-income, the prohibition on terminating service is definite). The rules covering electric, gas, water, and telephone service shut-offs for elderly households require the following:²⁶

- Companies must establish procedures to identify households in which all adult members are 65 or older. To protect yourself, you should notify the utility company if every adult in your household is 65 or older.
- Companies must allow elderly households to identify a third-party contact person who can warn them if a utility company threatens to shut off service. To get this protection, contact your utility company and ask for a Third Party Notification Form. You can name a friend, relative, or home-care provider as a third party. After you give a company this form, the company must then notify your third party of all overdue bills and shut-off notices. This third party is not legally responsible for paying your bill.
- Companies cannot shut off service to elderly households without written permission from the DPU. Because this

would involve a hearing before the DPU, companies rarely even request permission to shut off service to elders.

What to Do to Restore Your Service

Most of the grounds for preventing termination of service are also grounds for getting service restored once it has been shut off.

1. If You Qualify for a Special Protection

If your utility service has already been terminated, you have the right to get it restored if you are eligible for any of the protections discussed in the **Special Protections Against Shut-offs** section in this chapter. Note, however, that this right to get service restored is not indefinite.

While the DPU has never defined how long after a termination a customer can ask to have service restored based on a Special Protection, companies may refuse to restore service if the customer has been terminated for 90 days or more. If you are trying to get service restored, but the company refuses because it claims you are no longer a customer or have been terminated too long, contact the DPU Consumer Division.

Putting aside the question about how long a customer retains the right to restore terminated service, **the utility company must restore your service** if you can show financial hardship and one of the following:

- **For Electricity, Gas, Private Water Company and Wireline Telephone:** A household member is seriously ill. This can include an adult, child, or other household members who has any physical, mental, or emotional condition or health problem that a doctor believes is a serious illness.
- **For Electricity, Gas, Private Water Company, and Wireline Telephone:** Every adult in the household is over age 65

and the company has not gotten permission from DPU to terminate service.

- **For Electricity, Gas, and Private Water:** A child under one year of age is living in the home, *whether or not* the child was born before the service was terminated for non-payment.
- **For Electricity and Gas:** It is between November 15 and March 15 and the utility provides heat or is needed to run the furnace or heating system.
- **For Telephone:** You have a personal emergency requiring access to a phone.

If your household is eligible for one of these protections, you should notify the company immediately. To do this, follow the steps outlined in the **Special Protections Against Shut-offs** section in this chapter. If the company refuses to restore your service, call DPU (or DTC, in the case of telephone service) for assistance.

2. If the Company Did Not Follow Proper Procedures

If the company did not follow the procedures listed in the next section in this chapter, called **Your Rights During the Termination Process**, before shutting off your service, it should restore your service and go through the proper procedures. You should call the company immediately; explain which procedures were not followed, and ask that your service be restored until the proper procedures are followed and you are given a chance to respond to them. If the company refuses, call the DPU.

3. If You Are Trying to Set Up an Account at a New Address

If you are trying to set up an electricity or gas account at a new address and you owe the company money, you may have to sign a "Cromwell Waiver," which states that you are

still responsible for the prior bills and that your new service can be terminated if you fail to pay them. You must then set up a payment plan for paying off the old arrearage. The company will often require that you pay half of the arrearage up-front. If you cannot do this and cannot get the company to agree to a different arrangement, call the DPU for assistance. For more information, see the section in this chapter called **Your Right to Obtain Service**.

Your Rights During the Termination Process

1. Electric, Gas, and Water²⁷

If a company tries to shut off your service for failure to pay for service at your current address, it must comply with the following procedures:

- The company must first send the initial bill. You have at least 48 days from the day that you receive this initial bill until a company can shut off your service for not paying the bill.
- The company must then send you a reminder notice called a "Second Request for Payment." The company must wait at least 27 days after sending you the first bill before sending you a reminder notice.
- The company must send you a "Final Notice of Termination." It must wait until 45 days after sending you the first bill before sending you a final notice. This notice must give you at least 72 hours' (three days') notice as to when the termination will actually happen for gas and electricity, or 36 hours' (one and a half days') notice for water.²⁸
- A company cannot terminate your account for non-payment of any portion of any bill that you are disputing.²⁹ If you think that you have been billed incorrectly, you can dispute your bill by contacting the company by phone, mail, or in person. The company then must investigate your claim and notify you in writing of the results of the investigation. If

you disagree with the company's findings, you can file an appeal at the DPU and request a hearing.

- Any company employee attempting to shut off your service must first see if anyone is home and explain to that person that service is about to be terminated. The employee must present that person with a notice describing all of the special termination protections, which include serious illness, infants, winter protection, and the elderly. The employee must postpone the shut-off for three days if you claim any of the protections. If no one is home, however, the company can shut off your service, but must leave a financial hardship form and a notice describing available protections under your door.
- Shut-offs can be done only between 8 a.m. and 4 p.m., Monday through Thursday. Shut-offs cannot be done on a Friday, Saturday, Sunday, holiday, or the day before a holiday.
- During the winter months, electric and gas companies must call you or notify you in person before shutting off your service. If no one is home, the shut-off cannot legally be completed.³⁰

2. Telephone³¹

For some land line telephone customers, telephone companies must follow termination procedures similar to those required of electric, gas, and water companies, with the following differences:

- You have a minimum of 45 days, rather than 48 days, between the initial bill and a potential shut-off. A telephone company has to wait 30 days after sending you an initial bill before it can send you a first termination notice, and the first termination notice has to be sent 15 days before the shut-off date.

- The telephone company does not have to send you a second request for payment before sending you the first termination notice. However, the company must send you two termination notices, the second of which must be sent five days before the shut-off.
- Regardless of the season, telephone companies must make at least one telephone call to inform you that a shut-off is scheduled. If no one answers, however, the shut-off can be completed.³²
- There is no requirement that a company employee attempting to shut off your service check to see if you are at home or leave information under your door.

Getting Help Paying Your Bills

1. Payment Plans

Many customers cannot afford to pay their utility bills and are not eligible for any of the special protections against shut-offs previously discussed in the section in this chapter called **Special Protections Against Shut-offs**. If you find yourself in this situation, you still are eligible for a **payment plan**.

Utility companies must provide customers with payment plans that allow a customer to take several months to pay overdue bills.³³ You have the absolute right to spread payment of overdue bills over a minimum of four months.

Do not agree to pay more in a shorter amount of time if you cannot afford it. If your budget does not allow you to pay the balance in four months, you should ask for a longer amount of time. Try to work out an acceptable payment plan with the company.

If you qualify for the discount rate and/or fuel assistance (see the sections below) and have not received them, tell the company that you will apply and that this will reduce your future bills. This should make the company willing to negotiate a better payment plan (such as requiring

less money up-front), since it indicates that you will be in a better position to make payments in the future.

Finally, you may be able to reduce the amount that you owe the company, and thereby get the company to agree to a better payment plan, by getting the low-income discount applied *retroactively* to your account. For more information see the following section, **Discount Rates**.

If the utility company won't allow you enough time to pay your overdue bill, call the DPU and say that you want a longer payment plan than the company is offering because you can't afford to pay more quickly.

2. Discount Rates

a. Getting Discounted Rates on Future Bills

State law requires all **non-municipal electric and gas companies** to provide discounted rates to low-income customers who receive or are eligible for public benefits.³⁴ You can get a discount on your electric and gas bills if your income is at or below 60% of state median income (see the chart at the end of this chapter) and you receive any benefits under any income-tested benefits program, including (but not limited to) the following benefits:

- TAFDC, cash assistance,
- EAEDC, cash assistance,
- SSI, cash assistance,
- State Veterans Services benefits,
- Women, Infant & Children (WIC) benefits
- Emergency Assistance shelter benefits,
- SNAP benefits (formerly Food Stamps),
- MassHealth ,
- Refugee Resettlement Program benefits,

- Fuel assistance (LIHEAP),
- Certain kinds of veterans' benefits, or
- If your child is enrolled in Head Start or the School Breakfast or School Lunch Program.

The discounted rates can lower your bills by roughly 25%, and therefore can save you a substantial amount of money each year. You can also get discounts from most **local telephone companies** if you receive:

- TAFDC, cash assistance,
- EAEDC, cash assistance,
- SSI, cash assistance,
- MassHealth Basic or Standard,
- SNAP benefits (formerly Food Stamps),
- Fuel assistance (LIHEAP),
- Head Start.

The "Lifeline" program provides discounted land line, mobile phone, or broadband service to eligible households.³⁵

b. Getting the Discounts Applied Retroactively

There are three different ways that discount rates can be applied retroactively.

First, some companies routinely put customers who receive fuel assistance onto the discount rates as of November 1, regardless of when the customer actually applies for and gets approved for fuel assistance during the winter months.

Note: While there are no rules or regulations that require companies to do this, some companies will do this if requested.

Second, if you apply on your own to get the discount rates, you should be (but generally are not) placed on the discount rate back to the day of application. For example, if the company takes

two months to process the discount rate application, you should not lose two months of the discount, but should instead ask to be placed on the discount rate as of the date of your application. But, again, there are no rules or regulations that require the company to do so.

Third, every company in the state has voluntarily agreed that it will place customers on the discount rate retroactively if the customer has in fact been eligible for the rate for some period of time but did not know to apply. **Customers themselves cannot call the company to ask for this type of retroactive application of the discount. Only advocates can do so, on behalf of their clients-customers, and only certain specified individuals at the companies will respond to these requests.** If you are an advocate and need more information about how to contact the company, call Charlie Harak at National Consumer Law Center at 617-542-8010.

3. Arrearage Management Programs

Each electric and gas company offers an "Arrearage Management Program" (AMP). In an AMP, the company provides a credit against overdue amounts (arrears) every time the customer pays the current monthly bill.

For example, if a customer owes \$1,200 and the company estimates that the customer's bills will be \$1,800 over the next 12 months (\$150 per month), the AMP generally works as follows: the company bills the customer the \$150 every month, leveling the bills so they are the same every month. Every time the customer makes a payment of \$150, the company provides a credit against the overdue amount, often $\frac{1}{12}$ of that amount. In this case, the credit would be \$100 ($\frac{1}{12}$ of the \$1,200 arrearage) every time the customer makes a payment. While the details vary from company to company, the concept is the same: customers are rewarded with credits against the arrearage every time they pay the current monthly bill.

To find out how to enroll in your company's AMP, call the customer service number on your bill.

4. Fuel Assistance Program

The state operates a fuel assistance program that assists low-income households in paying their heating-related bills. The program is run by the Department of Housing and Community Development (DHCD). Gas customers are eligible for fuel assistance only if they use gas for home heating. Electric customers are eligible if they heat with electricity and sometimes may receive payments on the electric bill if they use electricity to operate their heating system; for example, if the motors or fans on an oil-fired furnace run on electricity. For those who heat with oil, propane, kerosene, coal, or wood, the program pays whichever company delivers that fuel.

All households earning less than 60% of state median income are financially eligible for fuel assistance. The chart at the end of this chapter will tell you, based on your family size, whether you are financially eligible.

The actual amount of assistance has varied somewhat over the past several years. The amount that you receive will depend on your income, household size, and whether you live in subsidized housing.

You must apply for fuel assistance between November and April. To find out where to apply in your area, call 800-632-8175 or go to: www.mass.gov/hed/community/energy/low-income-home-energy-assistance-liheap.html.

5. Private Sources

Many utility companies voluntarily participate in a program called the Good Neighbor Fund, run by the Salvation Army.

This fund provides modest payments to help people pay their gas, electric, and oil bills. To be eligible for payments, a family must have income between 60% and 80% of the state median

income. To find out more about the Good Neighbor Fund, contact your local Salvation Army or go to: www.magoodneighbor.org/assistance.html.

In addition to the Good Neighbor Fund, there are statewide and local charities that sometimes help people with their heating bills. There is no central listing of all of these charitable sources, but a good place to start is by calling the United Way, the local chapter of St. Vincent dePaul, or local churches.

6. Relocation Benefits

The Department of Transitional Assistance (DTA) will pay up to \$1,000 to help get permanent housing for some families who are leaving a shelter or a teen living program. This benefit may be used for advance rent, security deposit, rent or utility arrears, moving expenses, or other relocation costs. The relocation benefit is available through a DTA worker for:

- a family receiving TAFDC cash assistance or EAEDC cash assistance who has been in emergency shelter for 60 days or more,
- a family receiving TAFDC cash assistance who has been in a domestic violence shelter for 60 days or more, or
- a teen parent age 18 or 19 who has been in a teen living program for 60 days or more and can live independently.³⁶

You can get the \$1,000 relocation benefit only once in a 12-month period. But it is not an Emergency Assistance (EA) benefit and will not disqualify you from receiving an EA benefit within the 12-month period. **For more information see the Emergency Assistance Advocacy Guide** prepared by the Massachusetts Law Reform Institute, available at www.masslegalhelp.org/homelessness/emergency-assistance/advocacy-guide

In addition, certain families moving out of EA shelter are eligible to receive up to \$6,000 of HomeBASE Household Assistance to help with

relocation expenses. And families who are eligible for EA shelter, but choose instead to receive HomeBASE Household Assistance can receive up to \$4,000 to help them secure housing.

There are other relocation resources for families and individuals, whether or not they are in shelter. One such program is Residential Assistance for Families in Transition (RAFT). Individuals who receive Supplemental Security Income (SSI) may be eligible for state-funded Special Benefits of up to \$150 in moving costs to move within the state if the current living situation has been certified as substandard; a move is required due to health, safety, or other conditions; or the individual is moving into subsidized housing. Special Benefits for SSI recipients may also be available to cover the cost of replacing furniture, household equipment, food, clothing, or supplies lost as a result of a fire or other natural disaster. Ask about Special Benefits at your local DTA office. Or see Part 5 of the Emergency Assistance Advocacy Guide available at www.masslegalhelp.org/homelessness/emergency-assistance/advocacy-guide

Lowering Your Bills Further

Besides applying for the low-income discount, fuel assistance, the Good Neighbor Fund, and/or funds from other private sources, you can take the following steps to reduce your monthly electricity and gas bills.

1. Continuous Level Billing

If you have trouble paying your heating bills in the winter, you may want to consider this payment option for your heat source utility. With continuous level billing, the company averages your bills from the past year in order to determine your average monthly bill. You are then billed this fixed amount every month. For example: Assume you have electric heat and pay \$200 per month for the six months when the weather is cold, but only \$60 per month when the weather is warm. Your average monthly bill is \$130 per month. With continuous level billing, the company would bill

you \$130 each month year-round, so that you can avoid ever having to pay out \$200 at one time. Companies generally enroll customers on level billing plans during the summer and fall months, and require that the customer be current on their bills to be able to enroll.

2. Weatherization and Heating System Programs

Your heating and cooling bills may be too high due to drafts, cracks, poor insulation, or an inefficient or broken heating system. Weatherizing your house or apartment and repairing your heating system can significantly reduce your bills.

There are local organizations across Massachusetts that receive funding from the U.S. Department of Energy and from utility companies to provide weatherization assistance to low-income tenants and homeowners. To qualify for this assistance, your household income must be under 60% of median income (see chart at the end of this chapter). If you qualify, the organization will send a certified energy auditor to inspect your home. If the auditor finds that your home needs sealing, insulation, weatherstripping, or minor repairs related to weatherization, or that your heating system needs repair or replacement, the organization will hire a contractor to do the work at no cost to you.

To find the nearest organization offering these services, call the DHCD Heatline at 800-632-8175 or go to www.mass.gov/hed/docs/dhcd/cd/cold/17coldreliefbrochure.pdf.

3. Getting Repairs Made

If your windows, flooring, walls, heating system, or thermostat are in need of repair, this can increase your heating and cooling bills substantially. Your landlord is responsible for keeping your apartment in safe and habitable condition. See **Chapter 8: Getting Repairs Made** for information on what to do.

Common Problems

1. Another Person's Bill

a. Deserted Spouse

If you are a married woman, you have separated from your husband, and he has left overdue utility bills in his name, you are not responsible for your husband's bills unless you have property worth more than \$2,000—and even then you are *liable* only to a maximum of \$100 for each account.³⁷

To obtain the benefit of this rule, you should call the utility company and ask that a new account be opened in your name. You should do this as quickly as possible. If you do not inform the company that your husband has left, a dispute will often arise as to when he actually left. The company may also claim that you accepted responsibility for your husband's old bills by leaving the account in his name for as long as you did. Therefore, it is strongly recommended that you make the change promptly.

b. Roommate

When a roommate who is **the customer named on the utility bill** moves out of an apartment, the remaining roommate is not responsible for the departed roommate's bills.³⁸

c. Landlord Transfers Bill to Tenant

When a landlord wishes to transfer responsibility for a utility bill from herself to a tenant, she cannot simply do so by calling the company. The tenant must agree in writing with the landlord and the utility must be separately metered.³⁹ If you have not agreed in writing to a utility bill being put in your name, call the utility company and ask that the bill be taken out of your name. If your landlord then refuses to pay the bill, the company cannot shut off your service without giving you notice. For more information, see the section in this chapter called **Your Right to Continued Service**.

2. Estimated Bills

Utility companies are required to read your meter on a regular basis. When they read your meter and send you a bill, your bill is based on your actual use. Utility companies are also allowed to send customers "estimated bills" based on your estimated use. The problem with too many estimated bills is that if the company estimates your utility use on the low side, you eventually will receive a very large "catch-up" bill once a company reads your meter and determines your actual use. Companies can also estimate on the high side and you may be paying more than you should.

You will know if it is an estimated bill because the word "ESTIMATE" must appear clearly on the face of the bill. A company may alternate between bills based on a meter reading one month and on estimated use the next month. A company cannot, however, send you two estimated bills in a row unless:

- You deny the company access to the meter, or
- The company cannot read the meter for reasons beyond its control.⁴⁰

If you want your bill to be based on your actual use every month, you can read the meter yourself. If you do this, you can report your reading to the company over the phone or through a meter reading card provided by the company. You can also contact the company and make arrangements for your meter to be read at a time when you will be home, including in the evening or on a Saturday.

3. Excessively High Bills and Illegal Metering Problems

Customers often complain that their utility bills are too high. Unfortunately, the reason in most cases is simply that rates are so high. If you heat with gas or electricity, your utility bills can easily exceed \$2,000 per year. Even the electricity needed to run lights, a refrigerator, and a few other appliances can cost \$75 or more per month.

a. Illegal Tapping

A high bill may, however, indicate that you have a problem. In some cases, someone may be illegally tapping into your utility lines—that is, someone may be using utility service from the line you pay for. This is more common in apartment buildings, where all the meters may be accessible in a common area, such as a basement. If you suspect that your gas or electrical service is being illegally tapped or diverted, call the utility company and the DPU.

Although neither the company nor the DPU is required by law to conduct a thorough physical inspection of your premises for illegal tapping, they may offer to test a meter or help in some fashion. If the company and the DPU can't or won't help you, you may have to hire an electrician or plumber to locate the problem.

b. Incorrect Metering

High bills may also occur when the landlord installs too few meters in a multi-family building or attaches common-area lights or appliances to an individual tenant's meter. For example, a renovated Victorian house may now have three apartments, but only two meters. Or, the landlord may have hooked up the hallway lights or a common dryer to your apartment's meter, so that you are paying for these on top of the charges for your own apartment. You may, therefore, be paying for your neighbor's utilities as well as your own. These sloppy metering practices are illegal under the state Sanitary Code.⁴¹

If you believe that the owner has violated the provisions of the Sanitary Code regarding

metering requirements, call the local Board of Health and ask for an inspection. If the Board of Health says that there is a metering problem, give a copy of the Board's report to the utility company within 60 days. The law requires the utility company to switch your entire bill to your landlord's name until the Board of Health certifies that the problem has been fixed.

If you paid for the heat, hot water, air conditioner, dryer, refrigerator, or freezer of another apartment or common area, the company must also refund you all of the utility bills that you paid during the period of improper metering, up to two years. If the incorrect metering resulted in your paying only for a common-area light, doorbell, and/or smoke or fire alarm, the company will refund you a total of \$10 per month for the relevant period.⁴²

There is another kind of incorrect metering, called *cross-metering*, when the meters of two apartments are completely crossed. In this situation, each tenant is being billed for the utilities used by the other apartment. The DPU has ruled that when this kind of cross-metering is the fault of the utility company, the customer cannot be held responsible. If you think that you are being billed for someone else's energy use instead of your own, call the utility company and ask the company to "flash" your meter. If it turns out that your meter has been crossed with someone else's due to the company's negligence and that you have been overcharged, the company will not be allowed to collect for any excess usage that was not previously billed. If it turns out that you were undercharged, the company cannot require you to make up the difference if the cross-metering was due to the company's negligence.⁴³

c. Defective Appliances

You may have defective or inefficient appliances that are using too much electricity or gas, thus causing unusually high bills. Again, you can try calling the utility company to see if they can offer any help. But you may have to hire a plumber or electrician to get a satisfactory answer to your problem. If the appliances belong to the

landlord, she may have an obligation to keep them in good working order under the state Sanitary Code.

4. Who's Responsible for Paying Bills

Your landlord may legally be responsible for utility bills that you have verbally agreed to pay. The state Sanitary Code requires a landlord to pay for the fuel used for hot water and space heating, as well as other electric and gas bills, unless you have signed a written agreement stating that you are responsible for these bills.⁴⁴ **If you have not agreed in writing to pay these bills, the landlord cannot make you pay them.**

However, if you pay the bills under a verbal agreement, you may have trouble getting the landlord to reimburse you later. The Massachusetts courts agree that it is a deceptive practice under the state's consumer rights law for a landlord to force a tenant to pay utility bills without a written agreement. However, even if there is such an agreement, the courts usually will not order a landlord to reimburse the tenant for bills that the tenant has already paid. Instead, the courts simply award the tenant \$25 in *damages* and require the landlord to pay the tenant's legal fees.

There are two exceptions to this: If the tenant can show that she had to live without utilities for any period of time as a result of the landlord's not paying the bills, a court may award more money. Also, if the tenant can show that the combined cost of her rent and her utility bills is more than

the *fair market value* of the apartment with utilities included, the court may award the tenant the difference between the two amounts.⁴⁵

Special Rules for Tenants Living in Condominiums

If you live in a condominium as a tenant and you face the loss or the threat of the loss of utility service due to the failure of the association to pay utility or heat bills, there are steps you can take to protect your rights.

The DPU has published regulations that apply to condominiums. These regulations also describe which other DPU rules apply to condo associations, to individual condo unit owners, and to tenants in condo units.⁴⁶ The regulations allow a condominium association to choose either the residential or commercial rate of the utility company, whichever is cheaper.⁴⁷

The general DPU rules regarding pending bills, providing notice of termination, and offering payment plans apply when condo associations are customers. When units are separately metered, companies must give individual condo unit owners all special protections against shut-offs, as described in this chapter.⁴⁸ When a condo unit is rented to a tenant, that tenant has all the rights described previously in this chapter about when landlords fail to pay.⁴⁹

Fiscal Year 2017 Low Income Home Energy Assistance Program Income Eligibility Chart

Estimated state median income for a 4-person family	60 Percent of Estimated State Median Income					
	1-Person Family	2-Person Family	3-Person Family	4-Person Family	5-Person Family	6-Person Family
\$	\$34,001	\$44,463	\$54,925	\$65,387	\$75,849	\$86,311

Source: www.mass.gov/hed/docs/dhcd/cd/liheap/liheapbenefit.pdf

Endnotes

1. *See generally* G.L. c. 164 (gas and electricity); G.L. c. 165 (water); 220 C.M.R. §25.00 (billing and termination regulations for gas, electric, and water companies).
2. DPU 18448 (telephone regulations). If you cannot access this link for the telephone regulations, they are available at no charge from the National Consumer Law Center, 617-542-8010.
3. G.L. c. 164, §1F(2); 220 C.M.R. §25.02(1).
4. While G.L. c. 231, §§85O, 85P say that if you are 18 or older, you have reached the age of maturity and have the full legal capacity to contract, there is no statute which provides a legal basis for denying services to someone under the age of 18.
5. 105 C.M.R. §410.180 requires the property owner to provide occupants with potable water. 105 C.M.R. §410.190 requires the property owner to provide and maintain facilities in good operating condition which are capable of heating water. 105 C.M.R. §§410.350 and 410.351 require the property owner to have proper plumbing connections and to maintain plumbing and water systems so that they are free from leaks.
6. In certain limited circumstances the property owner could require the tenants to pay the water bills. G.L. c. 186, §22 and 105 C.M.R. §410.354(D). Very few property owners have been willing to comply with the conditions that must be met to shift to tenants the burden of paying for utility bills. Therefore, very few tenants in Massachusetts are actually responsible for paying for water. For more information about the water sub-meter law go to: www.MassLegalHelp.org/housing/water-law.
7. 105 C.M.R. §§410.190, 410.201. If no such written agreement exists, the landlord is legally responsible for the cost of heat and hot water even if the tenant has adopted the practice of paying for them. *Young v. Patukonis*, 24 Mass. App. Ct. 907 (1987). *See also* 105 C.M.R. §410.354 (property owner must pay for the electric and gas bills unless there is a separate meter which measures only the tenant's own usage and there is a written letting agreement requiring the tenant to pay).
8. 105 C.M.R. §§410.200, 410.201, 410.355. If no such written agreement exists, the landlord is legally responsible for the cost of heat and hot water even if the tenant has adopted the practice of paying for them. *Young v. Patukonis*, 24 Mass. App. Ct. 907 (1987). *See also* 105 C.M.R. §410.354 (property owner must pay for the electric and gas bills unless there is a separate meter which measures only the tenant's own usage and there is a written letting agreement requiring the tenant to pay).
9. 105 C.M.R. §410.354.
10. 220 C.M.R. §27.00.
11. The process of using "Cromwell Waivers" to get service at a new address is not required or even described anywhere in the DPU's regulations.
12. 220 C.M.R. §27.00. The process of using "Cromwell Waivers" to get service at a new address is not required or even described anywhere in the DPU's regulations. This prohibition on deposits applies to the privately owned utilities, such as NSTAR and National Grid, which provide electricity and gas to 90% of the households in Massachusetts. Municipally owned utilities—for example, the Groton Electric Light Department—can charge deposits. G.L. c. 164, §58A.
13. DPU 18448, Rule 4.5.
14. Gas service is not available except where your company has existing distribution lines. Electric companies may not readily agree to provide service to a particularly remote rural customer unless the customer contributes to the cost of bringing a power line to the house.
15. 220 C.M.R. §25.02(3) (general rule on utility shut-offs).

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16. [G.L. c. 164, §124](#) (customer cannot be shut off for bill at prior address). [G.L. c. 164, §125](#) (customer cannot be shut off for bill of prior occupant); *Cromwell v. Boston Gas Co.*, DPU 18123 (1974).
 17. [G.L. c. 164, §124B](#).
 18. [G.L. c. 164, §124D](#) (electricity and gas), [G.L. c. 165, §11E](#) (water), and [220 C.M.R. §25.04\(6\)](#) (notice to tenants) contain the protections for tenants discussed in this section.
 19. [220 C.M.R. §25.04](#).
 20. Private water companies are regulated by DPU and are generally in more rural areas. The city/town public water departments are not regulated by the state and no state-law protections against terminations apply. The exception to this may be if you are a tenant and the property owner is billing you for water. Under [G.L. c. 186, 22\(l\)](#) property owners are prohibited from shutting off your water or refusing you water service, even if you are late in paying the water bill or have not paid your water bill. The water company, whether it is a private or a public water company, still, however, has remedies against the owner for nonpayment of the water bill. [G.L. c. 186, 22\(j\)](#).
 21. [G.L. c. 164, §124A](#); [220 C.M.R. §25.03](#).
 22. Customers with copper land line telephone service or regulated fiber optic telephone service remain covered by consumer protection rules, but these rules do not apply to customers with Verizon FiOS service, voice over internet phone service, or other types of telephone service. The DTC has issued a memo to explain these rules, at <http://www.mass.gov/ocabr/docs/dtc/consumer/fiber-migration-advisory-final-6-27-14.pdf>.
 23. Regulations protecting telephone consumers are contained in [DPU 18448](#). If you cannot access the link to the regulations they are available at no charge from the National Consumer Law Center, 617-542-8010. The serious illness provisions discussed in this section are in [DPU 18448, Rules 5.15, 5.16](#). The personal emergency rule is [5.17](#).
 24. [G.L. c. 164, §124F](#); [220 C.M.R. §25.03](#).
 25. [G.L. c. 164, §124H](#); [220 C.M.R. §25.03](#).
 26. The regulations covering elderly accounts are [220 C.M.R. §25.05](#) (electric, gas, water) and [DPU 18448, Part 8](#) (telephone).
 27. The procedures described in this section are mandated by [220 C.M.R. §§25.02, 25.03](#).
 28. [220 C.M.R. §25.02\(3\)](#).
 29. [220 C.M.R. §25.02\(3\)](#).
 30. [220 C.M.R. §25.03](#).
 31. The procedures described in this section are mandated by [DPU 18448](#).
 32. [DPU 18448, Rule 5.9](#).
 33. [220 C.M.R. §25.01\(2\)](#) (definition of "payment plan"), [§25.02\(6\)](#).
 34. [G.L. c. 164, §1F\(4\)\(i\)](#); [220 C.M.R. §14.03\(2A\)](#).
 35. The following land line phone companies participate in the Lifeline program, and others may as well: Verizon, Granby Telephone Company, Richmond Telephone Company, and Taconic Telephone. Wireless providers who offer Lifeline service include Assurance Wireless, Budget Mobile, SafeLink Wireless, and StandUP Wireless.
 36. [106 C.M.R. §705.350\(A\)\(3\)](#).
 37. [G.L. c. 209, §7](#) (but note that the constitutionality of this law has been questioned, see *Pioneer Valley Postal Fed. Credit Union v. Soja*, 2002 Mass. App. Div. 193 (Dist. Ct. 2002)).

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38. *Key v. Boston Edison Co.*, DPU 19355 (1978).
39. 105 C.M.R. §410.354. *Corey v. Boston Gas Co.*, DPU 19758 (1980).
40. 220 C.M.R. §25.02(2).
41. See the following summary process cases for discussions of incorrect metering (the courts may refer to this as cross-metering, even where the problem is incorrect metering rather than meters that are completely switched between tenants): *Swedberg v. Welvaert*, Mass. Housing Ct., No. 10-SP-0784 (Western Div.) (Aug. 2, 2010) (ordering three months rent as damages for cross-metering); *Lavigne v. Dupelle*, Mass. Housing Ct., No. 09SP3770 (Western Div.) (July 9, 2010) (unlawful to charge tenants for entire utility bill where there was one meter for building with two units) (even with dashes in between the case number); *Lynn v. Adeeko*, Mass. Housing Ct., No. 10-SP-1379 (May 4, 2010) (where metering problem resulted in tenant paying for electricity for common areas, tenant was awarded damages equal to three months of rent); *Marquez v. Guerrero*, Mass. Housing Ct., No. 09-SP-1658 (June 2009) (tenant awarded three months of rent as damages for cross-metering); *Rainaud v. Worknick*, Mass. Housing Ct., No. 04-SP-4449 (Jan. 19, 2005) (awarding tenant three months rent as damages for cross-metering); *Shuman v. Burns*, Mass. Housing Ct., No. 98-00938 (April 1, 1998) (ordering three months rent as damages for cross-metering); *Gilmore v. Lafreniere*, Mass. Housing Ct., No. 88-SP-7406-WS (Nov. 1, 1988) (tenants unlawfully billed for heat and hot water, landlord required to pay whole bill as remedy). See also, *Silva v. Brandon*, Mass. Housing Ct., No. 96-CV-00136 (Southeastern Div.) (Nov. 18, 1996) (default judgment in civil action awarded damages for cross-metering).
42. See 220 C.M.R. §§29.01-29.13.
43. As the DPU noted in *Rapice v. Mass. Electric Company*, DPU 84-86-28, at 5 (Sept. 8, 1994), a "company may bill a customer retroactively for electricity used, but not originally billed, when that billing results from cross-metering that was not the fault of the Company [citation omitted]. . . . However, when the Department has determined that a Company was at fault for not discovering cross-metering after complaints from customers, it has found that a full abatement was warranted." See also *Thomas v. Boston Edison Company*, DPU 93-AD-30 (Nov. 1, 1994); *Van Buskirk v. Boston Gas Company*, DPU 3 (1982).
44. 105 C.M.R. §410.190 (hot water), §410.201 (heating), §410.354 (gas and electric).
45. See *Knott v. Laythe*, 42 Mass. App. Ct. 908, 910 (1997) (if the combined cost of rent plus utilities does not exceed the fair market value of the apartment with utilities included, tenant can only recover \$25 and reasonable attorney's fees under G.L. c. 93A); *Poncz v. Loftin*, 34 Mass. App. Ct. 909 (1993), rev. den'd 415 Mass. 1102 (1993) (tenant cannot recover cost of paying for heat and hot water under verbal agreement with landlord when tenant never asked landlord to pay bills and cannot show that apartment was made uninhabitable by defective heating equipment or interruptions in service; tenant is entitled only to nominal damages of \$25 and reasonable attorney's fees under G.L. c. 93A); *Young v. Patukonis*, 24 Mass. App. Ct. 907, 908-909 (1987) (verbal agreement to pay for heat or hot water is void). These decisions were based on the theory that the Sanitary Code allows landlords to shift the burden of payment to tenants via written agreement and that the failure to reduce a verbal agreement to writing does not in itself make the apartment uninhabitable.
46. 220 C.M.R. §28.00.
47. 220 C.M.R. §28.04.
48. 220 C.M.R. §28.05(1).
49. 220 C.M.R. §28.05(2).
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