

New York City Water Board

Regulation Number 3

Denial of Access

Effective July 1, 2002, First Amendment Effective July 1, 2009

Statement of Basis and Purpose

This regulation is authorized by Sections 1045-g(3), g(4), g(17) and j(5) of the New York Public Authorities Law, which provide that the New York City Water Board (the "Board") shall establish, fix, revise, charge, collect and enforce the payment of all fees, rates, rents and other service charges for the use of, or services furnished, rendered or made available by the water system and wastewater utility systems of the City of New York (the "System") and that rules and regulations of the Board may provide for the enforcement of fees and service charges and the discontinuance or disconnection of the supply of water or the provision of sewerage service, or both, for non-payment of charges imposed by the Board.

Pursuant to an Agreement of Lease, dated as of July 1, 1985, as amended (as so amended, the "Lease"), between the City of New York (the "City") and the Board, the City leased the System to the Board. The Lease provides that the City shall continue to operate and maintain such System and to enforce the rules and regulations of the Board and of the City relating to the use thereof. This function is performed by the New York City Department of Environmental Protection, an executive agency of the City ("DEP").

The commercial relationship between those who receive System services and the Board is based on the provision of service and the resultant obligation of the customer to pay for such services. This obligation to pay is based on the amount of water consumed as registered by DEP's meters, which are situated within the customer's property, or based on a building's profile pursuant to a flat-rate basis of billing. On metered accounts, DEP must gain access to the premises to obtain and validate meter readings to measure water consumption and in order to avoid estimated charges, which may not reflect the actual quantity of services provided. For flat-rate accounts, DEP must have the ability to inspect the building's physical profile and water-consuming fixtures. Actual meter readings or correct building profiles allow DEP and the Board to accurately assess consumption, generate accurate bills, and generally ensure that each customer is billed a fair and equitable amount. Accurate readings also encourage customer payments by reporting the actual amount of water consumed and the amount owed for such consumption. As a condition of service, the Board's Water and Wastewater Rate Schedule requires that owners provide and/or facilitate access to their premises.

It is evident that when a customer receives System services it should be billed and should pay a fair and equitable amount in proportion to the quantity of services provided and received and in proportion to other users of the System. It is also evident that when utility employees cannot obtain access to a customer's premises as defined herein, the utility is inhibited from making a reasonable determination with respect to the accuracy of amounts billed and the fairness of the amounts paid for services received. When this occurs, a reasonable inference can be made that the customer has received more services than that for which the property has been billed and, as a consequence, the property has received a quantity of services for which payment has not been made. This inference of a failure to pay for services received is rebuttable when the owner provides or facilitates access to the premises in order to allow DEP to make a precise determination of the actual quantity of services received and for which payment is due.

DEP also may require access on demand for cause when necessary to inspect, test, upgrade, repair or replace meters, remote meter reading devices or other meter appurtenances that may be malfunctioning, have stopped registering or whose condition or reliability appears to be uncertain. Access for cause is also necessary where meters are discovered to have been removed or are disconnected or missing, or when the installation of a meter bypass device or meter tampering is suspected and in all such similar instances where a possible theft of service condition may exist. Missing and malfunctioning meters and theft of service conditions negatively bear upon the accuracy of charges being assessed and, therefore, on the commercial relationship between the Board and the customer by indicating a quantity of services received for which payment has not been made. In these cases, in order to ensure appropriate payment for services received, DEP must be authorized to issue a written notice to the customer to gain access to the premises to verify conditions, correct impairments where necessary and direct customers to remove and cease and desist from theft of service conditions when discovered.

Finally, DEP must be able to obtain access when deemed necessary or appropriate to ensure for the proper operation and maintenance of the System and the protection of public health, or the exercise by DEP or the Board of their powers or duties under law.

This regulation is intended to assist DEP in enforcing payment for services received when water and sewer customers, after reasonable notice, fail to provide and/or facilitate access to their premises thereby preventing DEP or its agents from inspecting water and sewer service at the premises. To that end, this regulation authorizes DEP to impose an account administration fee and attributed consumption charges and to pursue all available enforcement actions for customers that fail to provide and/or facilitate access to their premises as required by DEP. A chronic failure to provide access or the affirmative denial of access also permits a reasonable inference that a theft of services may be occurring. In such circumstances, equity and fairness to other System customers and a proper recognition of the Board's obligation to enforce payment for services provided requires prudent and assertive measures to ensure that improper activity is not occurring and to halt it when it does occur. A customer can avoid all adverse denial of access

actions authorized by the Board's Rate Schedule and this Regulation by simply providing and/or facilitating access to the customer's premises to DEP at a time and in a manner acceptable to DEP.

Remedies

When DEP identifies a need for access to a customer's premises either to obtain an actual meter reading or on demand for cause, it shall follow the three-step sequential notice protocol set forth in the Board's Rate Schedule. DEP shall impose a denial of access account administration fee on each account where a customer fails to provide and/or facilitate access as required by DEP in a first written notice. DEP shall, in addition to the denial of access account administration fee, impose attributed consumption charges on each applicable service where a customer fails to provide and/or facilitate access as required by DEP in a second written notice in accordance with the Rate Schedule. If an owner fails to provide and/or facilitate access to a premises as required by DEP in a third written notice, the account will be subject to any and all enforcement actions available to DEP by property class, including but not limited to sale of the lien for unpaid charges. In addition, DEP may issue a 15-day Notice of Termination of Services to the premises for failure to provide access, and notwithstanding the foregoing, DEP may terminate service to any account which fails to pay any charges imposed pursuant to this Regulation in connection with denial of access if such charges are not paid by their due date.

Regulation Number 3

Denial of Access

Section 1. Definitions

As used in this Regulation, the following terms shall have the respective meanings ascribed to them below:

- (1) “Access” means the ability to inspect a Customer’s water and/or sewer service and premises in order to ensure the accuracy of charges and includes, but is not limited to the ability to inspect, test, install, repair or upgrade water meters, remote reading devices and any appurtenant System equipment.
- (2) “Account Administration Fee” is the fee authorized pursuant to the Rate Schedule upon DEP’s issuance of a Determination of Denial of Access.
- (3) “Attributed Consumption Charges” are the charges authorized pursuant to the Rate Schedule in addition to the Account Administration Fee upon DEP’s issuance of a Determination of Denial of Access.
- (4) “Authorized Representative” means any individual or organization who has an original ‘Letter of Authorization’ (“LOA”) on file with DEP, signed by the owner of the premises and notarized, designating that individual or organization as the Authorized Representative. If such LOA fails to state a specific end date, DEP will deem it to expire one year from the date of notarization. A valid Letter of Authorization must contain a statement that the owner hereby rescinds any previously issued LOA. In cases where an owner has authorized multiple representatives, DEP shall deem the latest dated LOA to be valid, superseding any earlier dated LOA.
- (5) “Board” means the New York City Water Board.
- (6) “Charges” means fees, rates, rents or other charges imposed by the Board and/or DEP pursuant to the Rate Schedule.
- (7) “Child” or “Children” means a person under six years of age.
- (8) “City” means The City of New York.
- (9) “Customer” means a current property owner or Authorized Representative of a property owner.
- (10) “Days” unless otherwise stated means calendar days.

- (11) “Demand for Access” means the issuance of a notice by DEP to a Customer which requires the Customer to provide and/or facilitate Access to the Customer’s premises to DEP at a time and in a manner acceptable to DEP.
- (12) “Denial of Access” means a failure of the Customer to provide Access to DEP as required in the Demand for Access.
- (13) “DEP” means the New York City Department of Environmental Protection or any authorized agents of DEP.
- (14) “Deputy Commissioner” means the Deputy Commissioner of the DEP Bureau of Customer Services, or designee.
- (15) “Determination of Denial of Access” means a written notice by DEP that a Customer has failed to provide Access to the Customer’s premises in accordance with a Demand for Access notice.
- (16) “Determination of Termination Complaint” or “Determination” means the written determination by the Executive Director of the Board in response to a Termination Complaint submitted by a Customer.
- (17) “Executive Director” means the Executive Director of the Board.
- (18) “Notice of Determination” means the notice provided to a Customer stating that the Executive Director of the Board has issued a Determination of Termination Complaint.
- (19) “Notice of Termination” means the notice sent to a Customer pursuant to Section 3.2 at least fifteen (15) days prior to the earliest date on which DEP will effect Termination of Service.
- (20) “Rate Schedule” means the Board’s effective Water and Wastewater Rate Schedule.
- (21) “System” means the Water Supply System and the Wastewater System collectively.
- (22) “Termination of Service”, “Terminate Service”, “Terminating Service”, “Terminate”, and all such similar word forms mean the discontinuance or disconnection of the supply of water and/or the provision of sewer service to any Customer.
- (23) “Water Board” means the New York City Water Board.

- (24) “Water Supply System” and “Wastewater System” means, respectively, the water system and wastewater system under the control and jurisdiction of the Board.

- 2.1 **Authorization to Pursue Enforcement Actions.**
Upon a Determination of Denial of Access, DEP is hereby authorized to pursue all actions in accordance with the Rate Schedule including the imposition of a Denial of Access Account Administration Fee and Attributed Consumption Charges and all such other enforcement actions as authorized by the Rate Schedule and this Regulation. Customers that disagree with the imposition of the Account Administration Fee or Attributed Consumption Charges imposed pursuant to this Regulation may utilize the Board's appeal process as provided for in the Rate Schedule
- 2.2 **Authorization to Terminate Service.**
DEP is hereby authorized by the Board to Terminate the supply of water and/or the provision of sewer service to any Customer for Denial of Access, in such circumstances as are specified in, and subject to, the requirements of this Regulation.
- 2.3 **No Alteration of Rights, Powers and Privileges of DEP and Board.**
Nothing contained herein shall be deemed to alter, amend or modify the rights, powers, or privileges of DEP or the Board otherwise conferred by law, or to subject DEP or the Board to the jurisdiction of any other governmental agency, authority, board, bureau, department or other body with respect to any Termination of Service.
- 2.4 **Termination in Addition to Other Remedies.**
Anything in this Regulation to the contrary notwithstanding, Termination of Service shall be in addition to, and not in lieu of, any other right or remedy available to DEP or the Board with respect to Delinquent Charges or Open Charges, including (without limitation) the imposition of a lien on real property to the extent permitted by applicable law.
- 2.5 **Delivery of Notices.**
Unless otherwise specified, delivery of notices as provided herein shall be made by regular mail.
- 2.6 **Termination of Service due to Public Health Concerns.**
Nothing contained herein is intended to, nor should it be interpreted as, limiting any powers of DEP to protect the health, safety and welfare of the citizens of the City by entering a premises without notice to prevent a contamination of the Water Supply System or other threat to the public health, safety and welfare, including, but not limited to, situations involving a cross-connection of a property's plumbing system, back-flow to the Water Supply System or a leaking water consuming fixture, water supply or sewer transport pipe.

Section 3. Termination of Service

- 3.1 (a) Classes of Accounts Where Service May Be Terminated.
Subject to Section 4 below, service may be Terminated to any class of accounts for Denial of Access.
- (b) Additional Criteria for Prioritizing Termination of Service.
DEP may, but shall not be obligated to, establish additional criteria within each such class of account to further prioritize and select accounts where service will be Terminated. Such criteria may include, but shall not be limited to: the length of time the Customer has failed to provide Access to the premises; the type of property which is receiving service; the current use of such property; and the eligibility of such property for inclusion in any program for the sale or other transfer of liens held by the Board as security for the payment of delinquent Charges.
- 3.2 Notice of Termination.
Except as provided in Section 4.3,
- (a) Notice Period.
DEP shall, at least fifteen (15) days prior to the earliest date on which DEP will Terminate Service pursuant to this Regulation, serve a written Notice of Termination on the following parties:
- (i) the subject Customer; and
 - (ii) the owner of the premises which will be affected by such Termination of Service.
- (b) Posting of Notice of Termination.
DEP shall also affix a copy of such Notice of Termination on the entranceway of the premises served. Such Notice of Termination in every case shall be served either personally on the person, firm or corporation to which it is directed, or by mailing the same via overnight mail to such person, firm or corporation. In the case of service on the owner of the affected premises, DEP shall be entitled to rely on the name and address of the record owner as reflected in the records of the New York City Department of Finance, as of the date the notice is served. In the case of service on the Customer in the event the Customer is not the owner, DEP shall be entitled to rely on the billing name and address of the Customer as registered in DEP's records.
- (c) Contents of Notice of Termination.
Each Notice of Termination served pursuant to Section 3.2(a) above shall clearly state and include:

- (i) the earliest date on which Termination of Service may occur;
- (ii) the reasons for Termination of Service, including a list of attempts to gain Access and the issuance of prior notices and imposition of Denial of Access related charges;
- (iii) a description of the actions required to provide or facilitate Access to the premises that the Customer must take to avoid Termination of Service;
- (iv) the address and telephone number of a DEP representative that the Customer may contact in reference to the subject account;
- (v) a description of the procedures specified in Section 4 below, which are available to the Customer to register a complaint about the subject account, and to have such complaint considered before Termination of Service;
- (vi) a summary of the exceptions set forth in Section 5 below, together with a notice that any Customer eligible for any such exception should contact DEP at the telephone number indicated.
- (vii) a description of the process for service restoration.

3.3 Additional Notice for Multiple Dwellings.

If any Termination of Service would result in the discontinuation of water service to an entire multiple dwelling (as defined in the New York Multiple Dwelling Law or the New York Multiple Residence Law), DEP shall, in addition to serving the notice required by Section 3.2(a) above, also post and/or mail all additional notices required under Section 116 of the New York Public Service Law, in the manner specified in such Section.

3.4 Physical Termination of Service.

- (a) **Dates and Times of Termination of Service.**
DEP shall effect Termination of Service only on the days of the week and during the times of day permitted under Section 89-b of the New York Public Service Law.
- (b) **Verification of Denial of Access.**
DEP shall verify on the day Termination of Service is scheduled to take place that the Customer has not provided or facilitated Access to the meter serving the subject premises as of the beginning of such business day.
- (c) **Expiration of Notice of Termination.**
DEP shall not Terminate water service on a date which is more than ninety (90) days after the earliest date set forth for Termination in the Notice of Termination required under Section 3.2 above, unless it has, since such notice, issued a new Notice of Termination in the manner required by Section 3.2 above.
- (d) **Discontinuance of Termination of Service.**
DEP shall discontinue Termination of Service if, prior to the time that Termination is to take place:

- (i) the Customer files a Termination Complaint with DEP in accordance with Section 4 herein with respect to the Denial of Access giving rise to such Termination;
- (ii) such complaint is received after service of, and in the manner specified in, the related Notice of Termination; and
- (iii) such complaint remains under consideration by DEP, provided that this shall not prevent DEP from Terminating Service pursuant to any other regulations of the Board; or
- (iv) the Customer has provided Access to the premises at the time of Termination of Service in a manner acceptable to DEP.

Section 4. Termination Complaints

4.1 Challenges to Notice of Termination.

If a Customer receiving a Notice of Termination wishes to submit a Termination Complaint about the Denial of Access claim giving rise to such notice, such Customer shall comply with the procedures set forth in Section 4.2 below.

4.2 Contents of a Termination Complaint.

A Termination Complaint must:

- (a) be submitted in writing;
- (b) include the identification of the property (street address, account number, or borough, block and lot number) and a statement of the reason(s) why the Customer believes DEP's Demand for Access is unwarranted;
- (c) include a return address other than a Post Office Box address;
- (d) include a telephone number, a fax number and an e-mail address, if available;
- (e) be addressed to and received by the Executive Director of the Board within ten (10) days from the date of the subject notice of termination issued by DEP; and
- (f) if the Customer is not the owner a Letter of Authorization from the owner authorizing the Customer to file a Termination Complaint must be included in accordance with Section 1.4.

4.3 Submission of an Incomplete Termination Complaint.

The failure by a Customer to comply with all provisions of Section 4.2 may be deemed by DEP to constitute a failure by the Customer to avail himself of the Termination Complaint procedures. Upon providing notice to the Customer that its Termination Complaint is incomplete, DEP may Terminate Service on the account without further demand or notice no earlier than ten (10) days after such notice of an incomplete Termination Complaint has been issued by DEP via overnight mail.

4.4 Determination of Termination Complaint.

DEP may not Terminate service earlier than ten (10) days after a Determination of Termination Complaint has been issued by the Executive Director. Such Determination shall be sent by overnight mail to the address specified in 4.2(c) above. In the event that such Determination is not in favor of the Customer sufficient to prevent Termination of Service, DEP shall affix a Notice of Determination to the entranceway of the premises served at least ten (10) days prior to Termination of Service.

4.5 Process After Receiving a Determination.

A Determination of Termination Complaint shall be the only written response a Customer shall receive from either DEP or the Board in response to a Termination Complaint as well as any complaint submitted by the Customer prior to receiving a Notice of Termination, if applicable. Such Determination shall be considered a Final Agency Determination.

Section 5. Termination of Residential Service - Special Procedures

5.1 Significant Medical Conditions.

(a) Suspension of Termination. DEP shall not Terminate or refuse to restore service to a residential premises when DEP is notified in accordance with this Section that a significant medical condition exists and such condition would be aggravated by a Termination of Service. A significant medical condition exists when a resident of such premises suffers from a serious illness or medical condition that severely affects his or her well-being. The Customer or such resident shall provide written certification by a licensed medical doctor, licensed nurse practitioner or the New York City Department of Health and Mental Hygiene (“NYCDOHMH”) that Termination of Service or failure to restore service will aggravate an existing significant medical condition suffered by a resident of the premises.

(b) Procedures for Initial Certification.

(i) Qualifications for Certification.

Initial certification of a significant medical condition may be made to DEP by a licensed medical doctor, licensed nurse practitioner or the NYCDOHMH either in writing or by telephoning the Deputy Commissioner, Bureau of Customer Services.

(ii) Effective Date.

Initial certification is effective for thirty (30) days from the date DEP receives it.

(iii) Written Acknowledgement.

If the initial certification is made by telephone, DEP must receive a written certification from the licensed medical doctor, licensed nurse practitioner or the NYCDOHMH within ten (10) days or the initial

- certification by telephone will be void.
- (iv) **Written Notice.**
Within ten (10) days of receipt of written certification, DEP shall provide the Customer and such resident with a written notice that:
- (aa) DEP received such certification and such certification is effective for thirty (30) calendar days;
 - (bb) advises the Customer and such resident of the procedures required for renewal of certification, including specifically a statement that if the Customer or such resident does not renew the certification before the thirty (30)-day period expires and arrangements to provide Access to DEP are not made, DEP may proceed with Termination.
- (c) **Procedures for Renewal of Certification.**
- (i) **Renewal.**
If the significant medical condition is likely to continue beyond the expiration of any written certification, the certification may be renewed, provided that before the expiration of the initial certification a licensed medical doctor, licensed nurse practitioner or official of the NYCDOHMH submits a new written certification that also states the expected duration of the significant medical condition and explains the reasons why Termination of Service would aggravate the significant medical condition.
 - (ii) **Effective Date.**
A renewed certification remains in effect for 30 days, except for cases certified as chronic by a licensed medical doctor, licensed nurse practitioner or official of the NYCDOHMH. Such renewed certification for those chronic cases shall be in effect for 60 days or longer if documentary evidence supports such longer period. Any request for a renewed certification shall be made in writing to the Deputy Commissioner, who shall be authorized to approve such longer period stating any special conditions to be met by the Customer.
 - (iii) **Resumption of Termination.**
DEP may only Terminate Service to a Customer who has submitted a certification of a significant medical condition after written notice, sent via overnight mail, has been provided to the Customer and if applicable, such resident, of DEP's determination that the certification of a significant medical condition is no longer in effect. In such instances, DEP shall affix a notice to the entranceway of the premises served at least ten (10) days prior to Termination.

5.2 Customers or Residents who are Elderly, Children, Blind or Disabled.

- (a) **Suspension of Termination.**

DEP shall not Terminate Service or refuse to restore service to a residential premises where the Customer or any other remaining residents of the households are known or identified to DEP within the previous six months as being blind, disabled, a Child or 62 years of age or older without complying with the procedures set forth in this Section.

(b) Procedure Before Termination of Service.

In cases where DEP has been made aware that in the previous six months that a resident or residents of a residential premises meets the conditions of Section 5.2(a) above, DEP shall make an effort as set forth in Section 5.2(e) to contact personally an adult resident at the subject premises before Termination of Service to attempt to secure an agreement that would avoid Termination by arranging for Access to the premises; (i) if contact is made with an adult resident, DEP shall afford such Customer 72 hours to arrange for Access to the premises and prevent Termination of Service; and (ii) where efforts at personal contact are unsuccessful or where DEP and a Customer are unable to reach an agreement, DEP shall notify the NYC Human Resources Administration/Department of Social Services (“NYCHRA”) of the name and address of the Customer and if applicable, such resident, and the date of termination so that such office may ascertain if the Customer and if applicable, such resident, is eligible for any assistance. DEP must continue service for at least twenty (20) days after providing this notice, unless notified by such office that other arrangements have been made.

(c) Procedures After Termination of Service.

In cases where Service has been Terminated and DEP is later notified that the Customer should have received the protections under this Section 5.2, DEP shall make an effort as set forth in Section 5.2(e) to contact personally an adult resident at the subject premises within 24 hours of such notification to attempt to secure an agreement that would arrange for Access and restore service. Where efforts at personal contact are unsuccessful or where the DEP and the Customer are unable to concur on an agreement, DEP shall notify the NYCHRA of the name and address of the Customer and if applicable, such resident, and the date of Termination so that such office may ascertain if the Customer and if applicable, such resident, is eligible for any assistance.

(d) Contact with Adult Resident.

In cases where DEP has Terminated Service consistent with the provisions of this Section, DEP shall make an effort as set forth in Section 5.2(e) to contact personally an adult resident at the subject premises within 10 calendar days after Termination, to determine whether alternative arrangements have been made for the provision of service and, if none have been made, attempt to secure an agreement that would arrange for Access to the premises and

restore service.

(e) Timing of Contact with Adult Resident.

For purposes of this Section, when DEP is required to make an effort to contact personally an adult resident, DEP must:

(i) attempt to call such person once between 9:00am and 5:00pm and if unsuccessful, twice between 6:00 p.m. and 9:00 p.m. on weekdays or 9:00 a.m. and 5:00 p.m. on Saturdays and Sundays, if there is a telephone; and

(ii) make an onsite personal visit, if there is no telephone or if telephone contacts are unsuccessful.

5.3 Procedures During Cold Weather Periods for Premises with Heat Related Service.

(a) Suspension of Termination.

During Cold Weather Periods, before Terminating Service to any residential premises with Heat Related service, DEP shall first make an attempt to determine whether a resident of the subject premises may suffer serious impairment to health or safety as a result of termination, in accordance with the procedures set forth below. Doubts as to whether a person may suffer serious impairment to health or safety as a result of Termination of Service must be resolved in favor of making such a finding. As used in this Section 5.3, the following terms shall have the respective meanings assigned to each below:

(i) A "Cold Weather Period" shall mean that period of time from December 21 to the last day of February of any year and at such other times subject to the approval of the Commissioner of DEP considering temperature and health and safety conditions.

(ii) "Heat Related Service" shall mean water service which is necessary for the on-going operation of a Customer's primary heating system.

(b) Impairment to Health and Safety.

For the purposes of this Section 5.3, a person may suffer serious impairment to health or safety as a result of Termination of Service when there is evidence of any of the following:

(i) dependency on such service due to age, poor physical condition or mental incapacitation;

(ii) use of life support systems;

(iii) significant medical condition as set forth in Section 5.1 hereof; or

(iv) disability or blindness.

(c) Procedures.

DEP shall not Terminate Service to Customers known to be receiving Heat Related Service during Cold Weather Periods, unless DEP has made an effort as set forth in Section 5.2(e) to contact personally the Customer or an adult

resident at the subject premises at least 72 hours before the intended termination, and if unsuccessful, at the time of Termination of Service, in order to determine whether a resident may suffer a serious impairment to health or safety as a result of Termination of Service, to fully explain the reasons for Termination of Service and to provide the Customer with information on the protections available under this Section 5.3.

(d) Continuation of Termination.

Where DEP determines that a resident may suffer a serious impairment to health or safety as a result of Termination, DEP shall not Terminate Service unless:

- (i) DEP notifies the NYCHRA orally and in writing within ten (10) days of an intended service termination, that a resident may suffer a serious impairment to health or safety as a result of termination; and
- (ii) such office, after an investigation, informs DEP that the reported condition is not likely to result in a serious impairment to health or safety, or that an alternative means for protecting the person's health or safety has been arranged.
- (iii) if DEP has notified such office under Section 5.3 (d)(i) it must inform the Customer of the referral and explain its purpose.

(e) Termination of Service

- (i) if DEP Terminates Service to a Customer under this Section 5.3, and the Customer or an adult resident of the subject premises was not personally contacted by DEP before Termination of Service and the Customer has not contacted DEP for the purpose of requesting reconnection before 12 noon on the day following Termination of Service, DEP must, by onsite personal visit with the Customer or other adult resident, immediately attempt to determine whether there is continuing occupancy and whether a serious impairment to health or safety may result if service remains Terminated. If DEP determines that a serious impairment to health or safety may result, it must immediately restore service. If DEP is unable to make an onsite personal visit with the Customer or an adult resident, and does not have reasonable grounds to believe that the premises have been vacated, DEP must immediately refer the name and address of the Customer to the NYCHRA.
- (ii) if DEP discovers that a premises water supply and/or wastewater service lines and/or appurtenances do not comply with City regulations governing such service lines and appurtenances, DEP may decide to Terminate Service to a residential premises because of an unsafe water supply or public health condition arising out of such

non-compliant service lines and equipment. DEP shall determine, in accordance with this Section, whether a resident of the subject premises may suffer a serious impairment to health or safety as a result of Termination. If DEP determines that a resident may suffer a serious impairment, it must follow the procedures set forth in subdivisions (b) and (c) above; provided however, that continued service is not required if it is impractical for DEP to eliminate such unsafe condition. In any cases where a resident of the subject premises may suffer a serious impairment to health or safety and DEP Terminates Service to preclude the continuation of an unsafe condition, DEP shall notify the NYCHRA on the same day Service is Terminated and request an immediate consideration of the case.

Section 6. Fee for Termination of Service

The Board may establish, and may from time to time revise, fees to be charged to Customers in connection with (i) any Termination of Service to a Customer under this Regulation, and (ii) for any restoration of service to such Customer. Such fees for Termination and restoration of service shall be due and payable to the Board upon performance of the work by DEP and upon issuance of the Charge. If any such fee is not paid when due, it shall be deemed a delinquent charge and shall, to the fullest extent permitted by law, become a lien against the premises served and a Charge against the owner thereof.

Section 7. Restoration of Service

Once service is Terminated pursuant to this Regulation, it shall not be restored unless and until Access to the premises has been provided and any outstanding fees owing to the Board for Termination of Service, or for the restoration of service, shall have been paid to the Board in full.

Section 8. Public Service Law

In accordance with the requirements of the New York City Municipal Water Finance Authority Act, all service terminations shall be carried out in accordance with the provisions of Subdivisions three-a, three-b and three-c of Section 89-b and Section 116 of the Public Service Law, as applicable.