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September 23, 2014

VIA ELECTRONIC MAIL

Kathleen H. Burgess
Secretary
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350
E-mail: secretary@dps.ny.gov

**Re: Appeal of Informal Review Decision
Case # 155032
Peconic Landing Apartments**

Dear Secretary Burgess:

Enclosed for filing is the Appeal of KeySpan Gas East Corporation d/b/a National Grid of the Informal Review Decision issued by the Office of Consumer Services on August 8, 2014 in the above-referenced case.

Please contact me if you have any questions or require further information.

Very truly yours,

/s/ Katherine E. Smith
Katherine E. Smith

Cc: Joseph Farber, Esq. (via regular mail)
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**NEW YORK STATE
PUBLIC SERVICE COMMISSION**

-----X
CASE 155032 Peconic Landing Apartments
-----X

**APPEAL OF
KEYSPAN GAS EAST CORPORATION d/b/a NATIONAL GRID**

In accordance with Section 12.13 of the New York Public Service Commission's ("Commission") regulations (16 NYCRR § 12.13), KeySpan Gas East Corporation d/b/a National Grid ("National Grid" or the "Company") hereby appeals the Informal Review Decision ("Informal Decision"), issued in Case No.155032 – Peconic Landing Apartments, on August 8, 2014, finding in favor of Peconic Landing Apartments and, on behalf of Peconic Landing, Utility Check Ltd. (collectively, "Complainant"), and directing National Grid to retroactively rebill the Complainant for six years from November 29, 2010, with interest. The Informal Decision is attached hereto as Exhibit 1. As set forth below, the Informal Decision is based on mistakes in facts and erroneous interpretations of laws or Commission regulations and, therefore, should be reversed.

BACKGROUND

Peconic Landing is a senior living facility located in Greenport, New York. The facility currently consists of: (1) 110 separately metered dwellings; each dwelling is a stand-alone, single-family cottage (collectively, the "cottages"); (2) a 132-unit apartment building divided into three sections, each section with a separate gas meter; and (3) a Health Center and Community Center that are separately metered. Complainant's gas service accounts for the 110 cottages are the subject of this appeal.

In May of 1999, when the Peconic Landing facility was in the development phase, prior to completion of construction, the Company received a combined gas and electric application¹ for non-residential utility service for the entire facility (the "Application"). The Application lists Retirement Living Services of 100

¹ The Company's standard procedure at the time was to provide the customer with combined applications for electric and gas service.

Allyn Street in Hartford, Connecticut,² as the agent for the customer, and denotes the “account name” as Peconic Landing at Southold, Inc. The Application is attached as Exhibit 2.

During the planning and development of the Peconic Landing facility, the developer/agent, Retirement Living Services, was in contact with Company representatives regarding the Application. Because there were multiple buildings planned, and the Company’s tariff required a separate application for each structure to receive service (cottages, apartment building, community center), on March 7, 2001, Retirement Living Services sent a letter to the Company’s representative authorizing the Company to make photocopies of the original Application for all of the accounts (in lieu of filling out over one-hundred duplicate applications by hand). The March 7, 2001 letter is attached as Exhibit 3 (“March 7 Letter”). The Application itself did not specifically set forth the types of dwellings to be provided with gas service and the Complainant left blank the field asking whether the service would be used primarily for residential purposes. The March 7 Letter stated that the development plan contemplated separate meters for a community center, health center, apartment building, and “111 individual cottages”. The March 7 Letter also clarified that a batch of the cottages would not be constructed in the “initial phase” of construction, but noted that the utility service stubs were anticipated to be constructed for all of the cottages as part of the initial utility installation.

The Application, as well as the accompanying non-residential rights and responsibility brochure (discussed below) and the Company’s non-residential rate schedule, clearly indicate the Complainant was applying for non-residential service. The Application is titled “Application and Contract for Non-Residential Customers” and states that “[a] copy of our current non-residential rate scheduled is enclosed with this application . . . [i]n addition, we have enclosed a brochure which details your rights as a non-residential customer.” It cannot be disputed that the Complainant applied for non-residential service for the entire facility.

² Businessweek.com describes Retirement Living Services, Inc. at 100 Allyn Street in Hartford, CT as “a professional services firm, engages in the development, operation, and marketing of retirement housing projects. It provides planning, development, regulatory, marketing, financial consulting, construction, and management services to senior housing communities.” Available at: <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=22037991>.

As is typical when a commercial developer is the initial applicant for a project, the individual cottage accounts did not qualify for a residential rate classification at the initiation of the accounts because, at that time, there was no actual residential use of the planned cottages.

Pursuant to the Application and the Company's tariff, the individual accounts for the cottages were initiated in the name of Peconic Landing on the non-residential rate classification beginning October 5, 2001. The accounts were not subsequently activated by individual occupants contacting the Company as they became residents of each cottage; rather, as Complainant stated in its position statement on informal review, the cottage accounts were activated in two large batches, with a little less than half of the accounts activated on or about October 5, 2001 and the remainder on February 15, 2002.

Following activation of the cottage accounts, all of the bills that Complainant received for the cottage accounts clearly stated that the rate classification for these accounts was non-residential. Additionally, in accordance with the Commission's regulations, the Company annually mailed to Complainant a non-residential rate brochure explaining the Company's rates and terms of service for non-residential customers.

On November 7, 2010, the Company received an inquiry from Peconic Landing's rate consultant questioning whether a residential rate classification was appropriate for the cottage accounts because they were primarily used as residences. Between the activation of these accounts in 2001/2002 and the Company's receipt of the Complainant's inquiry on November 7, 2010, neither Peconic Landing nor any agent on its behalf ever notified the Company that the cottages were being used for primarily residential purposes by individual occupants, inquired whether the non-residential rate remained an appropriate rate classification for these accounts, or requested that the accounts be placed in the names of individual occupants, a common practice when a development is finished.

Upon receiving the rate inquiry from Complainant in November 2010, the Company immediately undertook an investigation and bill adjustments were made. All 110 cottage accounts were changed to

residential rate 140 in December 2010 and credited from the date of inquiry, plus interest (billing date effective October 31, 2010). Complainant subsequently requested that a credit be applied for six years prior to the date of initial inquiry and filed a complaint with the Commission's Office of Consumer Services ("OCS").

OCS DECISION AND INFORMAL DECISION

On June 6, 2012 the OCS issued a decision directing the Company to re-bill the accounts based on the residential rate classification for six years prior to the date of inquiry (plus interest). The Company sought informal review of the OCS decision. The Company and Complainant each offered position statements, which are included verbatim in the Informal Decision (Exhibit 1). On August 8, 2014, the Informal Decision was issued, concluding that the Company was responsible to discover, without notice from the customer, the changed use of the premises and re-assign the accounts to the residential rate based on the following findings:

1. There was "no evidence to support a conclusion that the customer was aware that the non-residential rate [for the cottage accounts] was incorrect."
2. The Company's rate brochures were insufficient to give the customer adequate rate notice because the Company's brochures did not include language regarding the availability of residential rates (distinguishing the Company's brochure from language included in Con Edison electric brochures that were discussed in a line of Commission decisions cited by National Grid on informal review); and
3. Certain events and notations related to the cottage accounts should have alerted the Company to the change of use of the cottages to an active residential use, and the Company was accordingly required to act to change the rate classification without any direct notice from the customer.

The Informal Decision is based on the following mistakes in facts and erroneous interpretations of law and Commission regulations:

1. The Informal Decision based its conclusion on an erroneous and unsupported finding that the non-residential rate was incorrect as to the cottage accounts, and that a retroactive refund is available to the customer absent evidence that the customer knew that the rate was incorrect. The Company never asserted such an argument, and there is no Commission precedent supporting such a conclusion. Rather, the Company's position was and is that (i) the non-residential rate was correctly assigned at the time the accounts were established pursuant to the Company tariff because there was no residential use of the cottages at that time, and (ii) pursuant to well-established Commission precedent, the customer was responsible to inform the Company of any change in use that might qualify for an alternate rate. Accordingly, the Complainant is not entitled to a refund prior to the date of such notice or inquiry, which was not made until 2010.
2. The Informal Decision ignores facts that clearly demonstrate that the Complainant received sufficient, continuous notice over a period of years that it was paying a non-residential rate for the cottage accounts, which was appropriately assigned when the accounts were established.
3. The Informal Decision reverses well-established Commission precedent that the customer is responsible to notify the Company of changes in use of the premises for the purposes of determining rate eligibility following the initial creation of the account, and that a utility *is not* required to respond to clues based on activity on the accounts or interactions with the customer that might suggest the customer could be eligible for an alternate rate.

The Informal Decision is based on misconstrued facts and inapplicable arguments rather than focusing on the central issue in this matter: that, pursuant to prior Commission precedent, the customer, not the utility, is in the best position to know the character of use of the premises to be served for the purposes of changes in rate classification. The Company is not required to monitor usage on accounts or to investigate the purposes

of such usage to determine whether a rate classification that has been properly assigned remains the most advantageous rate classification over time. The Complainant in this matter knew or should have known that it was being billed at a non-residential rate for the cottage accounts, but did not inform the Company until 2010 that the cottages were being used in a manner that may qualify for a residential rate. Complainant has already received sufficient re-billing on the account to the date of inquiry. For these reasons, the Informal Decision must be reversed.

DISCUSSION

1. The Non-Residential Rate Was Correctly Assigned to the Cottage Accounts at Their Inception.

The Informal Decision states that “the complainant’s attorney has successfully rebutted the utility argument that the customer should have known that the accounts were being incorrectly billed” and then erroneously concludes that “there is no evidence to support a conclusion that the customer was aware that the non-residential rate was incorrect,” so that the customer is entitled to a retroactive re-billing. This represents both a mischaracterization of the Company’s arguments presented on informal review and a misinterpretation of applicable Commission decisions.

First, the Company never conceded that the cottage accounts were “incorrectly” billed at the non-residential rate. Rather, the Company’s position statement clearly states several times that the non-residential rate was properly assigned to the cottage accounts at the time the accounts were established by the project developer because the cottages were unoccupied and, therefore, did not qualify for a residential rate. (Exhibit 1 at pp. 2-3).

Second, the Company’s position was that, consistent with prior Commission precedent, the customer, not the utility, is best-positioned to understand the use of the premises and communicate changes in use to the Company for purposes of determining the appropriate rate (Exhibit 1 at p. 5). Where the customer has

received adequate continuous notice that he or she is being billed on a non-residential rate, and where the use of the premises changes to one that is primarily residential, the customer is responsible to contact the utility. (Exhibit 1 at 6-7). This was not a case of an improper rate, but of a failure of the customer to inform the Company of a change in the character of gas use and to inquire about the availability of a more advantageous rate.

While Complainant's position statement on informal review argued that the non-residential rate was improperly assigned at account initiation, the Informal Decision did not address this argument or cite any facts, laws, decisions or regulations in support of its apparent conclusion that the rate was incorrect. In any event, such a conclusion cannot be reached in this case.

The Company's tariff and the Commission's regulations related to residential service define residential service as requiring use of the premises in whole or in part as a person's residence.³ If there is nobody residing at the premises receiving service, there is no residential customer. When a developer establishes utility accounts for a planned development project, there is no residential use of the premises at the time the account is created. In these instances, as was the case with Peconic Landing, the residential rate is not available. It is the Company's common practice to assign a non-residential rate in the name of the developer or owner of the project, as there is no occupant. Accordingly, the Application completed by the developer, Retirement Living Services, clearly stated that it was an application for "non-residential service" for all aspects of the Peconic Landing facility, and that Peconic Landing, not individual occupants, would be the customer of record on all of the accounts, including the cottages. Not only is this a proper application of the Company's tariff pursuant to the definition of a residential customer, but the Commission has also stated that a customer's choice of a corporate entity name on an account also weighs in favor of assignment of a non-residential rate. *See Case No.*

³ The Company's Tariff, Leaf 13, defines "residential customer" as one "maintaining residence at the premises to which gas is supplied" and The Home Energy Fair Practices Act, 16 NYCRR § 11.2 similarly defines "residential customer" as "any person who, pursuant to an application for service or an agreement for the provision of commodity supply made by such person or a third party on his or her behalf, is supplied directly with all or any part of the gas, electric or steam service at a premises used in whole or in part as his or her residence".

02-E-1160, *In the Matter of the Rules and Regulations of the Pub. Serv. Comm'n, Contained in 16 NYCRR, in Relation to Complaint Procedures -- Appeal by Mr. John Iannuzzi of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York*, "Commission Determination" (Issued and Effective May 23, 2003) ("*Iannuzzi*") (because residential accounts typically bear the name of the individual occupying the premises, where Complainant chose to use a corporate entity name as the name of the customer on the account rather than the name of an individual occupant at the premises, it was reasonable for the utility to assign non-residential rate to a rental property until notified otherwise by the customer).

In this matter, all of the accounts for Peconic Landing were properly assigned the non-residential rate during the development phase of the project. As is discussed below, the Complainant knew or should have known of the non-residential rate for the cottages for years after the cottages became occupied, and was responsible to notify the Company of any subsequent change in use with regard to the cottages.

2. Complainant Received Adequate, Continuous Notice of the Non-Residential Rate for the Cottages.

In focusing almost exclusively on the content of the Company's annual non-residential rate brochures, the Informal Decision ignored other facts that clearly show the Complainant received adequate and continuous notice of its rate classification for the cottage accounts under the Commission's prior decisions. The comparison of specific language in the rate brochures to language in Con Edison's brochure is inappropriate in this instance because the language cited in the Con Edison brochures is wholly inapplicable to National Grid's gas customers. The Company's brochures met all regulatory requirements and annually put Complainant on notice that its accounts were non-residential.

a) Aside From the Non-Residential Rate Brochure, the Application, Tariff, and Bills Provided Adequate, Continuous Notice of the Non-Residential Rate.

The Commission has found that forms of notice other than annual brochures, such as bills, also provide adequate, continuous notice to customers that they are being billed at non-residential rates. As the Commission instructed in *Iannuzzi*, in addition to the annual rate brochures:

[complainant's] bills identified the rate at which he was charged for electric service, indicating that he knew, or should have known, since 1986, that his account was being billed on [the non-residential service class]. Notwithstanding this continual notice, complainant did not take action until 2001 to seek a change in service classification. Under these circumstances, rebilling at [the residential service class] is not warranted.

See also Case Nos. 07-E-0598, *et al.*, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures – Appeal by Phipps Houses Services of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc. (605655), et al.*, at n.16 “Commission Determination” (Issued and Effective October 17, 2011) (“*Phipps Houses Services*”) (citing the utility’s “welcome package” that accompanied its non-residential service application as notice of the rate classification to the customer in addition to the annual brochures).

The Complainant received a copy of the Company’s current non-residential rate schedule and a copy of the Company’s non-residential rate brochure as part of the application package, as is clearly indicated on the cover page of the Application. This package is similar to the “welcome package” discussed in *Phipps Houses Services*. The Application also notes that the Company’s tariff is available in every business office, and the tariff sets forth all rate classifications and qualifications. Most importantly, every bill Complainant received from 2001 to 2010 clearly showed a non-residential rate for the cottage accounts. This evidence was ignored by the Informal Decision.

b) National Grid’s Annual Non-Residential Rate Brochures Were Sufficient.

The primary support for the Informal Decision’s holding was a finding that National Grid’s annual non-residential rate brochure was insufficient to put the Complainant on notice that the accounts in question were non-residential accounts and/or might be eligible for a residential rate because the Company’s brochures do not

include language highlighted by Complainants that is found in Con Edison brochures directed to electric customers. Based on this finding, the Informal Decision completely ignored the Commission's decisions that hold that a customer who knew or should have known that it was being billed on a non-residential rate is responsible to notify the Company when the use of the premises might qualify for an alternate rate. (Exhibit 1 at pp. 10-12). The Informal Decision thus distinguishes these cases on this improper basis, and ignores controlling holdings of these cases that are clearly applicable to this matter.

The language included in Con Edison's brochure with regard to the availability of residential rates is specific to features of the Con Edison electric tariff that are not found in National Grid's gas tariff. The Con Edison brochure language reads:

If you or your employee use the premises mainly as a residence you may be eligible to receive electric service under a residential service classification. Reclassification of your account under residential rates may lower your electricity bills. (*Iannuzzi*)

This language was added to Con Edison's non-residential electric rate brochure in the early 1990's due to a change in Con Edison's electric tariff that permitted, for the first time, Con Edison's residential service classification to apply to residential-type premises occupied by an employee of the account-holder such as a superintendent in an apartment building. Case Nos. 99-E-0274, *et. al.*, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures – Appeal by 48th Street Owners Corp. of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc., filed in C 26358 (971242), et al.*, "Commission Determination" (Issued and Effective September 6, 2000) ("*48th Street Owners*"). Prior to the tariff change, Con Edison's electric tariff precluded provision of service on the residential service classification to any customer other than the actual occupant of the premises (so that an owner of the premises could not be the customer of record on a residential account where the employee resided). *Id.*

The Company's gas tariff does not include a similar provision that expressly allows for the residential rate to apply to a customer's employee occupying the premises to be served; thus the Con Edison rate brochure language is inapplicable. Yet, the Complainant and the Informal Decision suggest that, absent this language in a non-residential rate brochure, a customer is not properly on notice that it is a non-residential customer (Exhibit 1 at pp. 10-11). Even if such language were generally applicable across utilities, "if you or your employee use the premises mainly as your residence," would not have given Peconic Landing any additional information with regard to its own accounts than what was actually included in National Grid's brochure, since Peconic Landing, the account holder, never claimed to use the cottages as its own residence or as a residence for its employees.

The Company's non-residential rate brochure (which was attached to its position statement on informal review and is attached hereto as Exhibit 4) did give Complainant notice that it was a non-residential customer. The brochure is titled "*Nonresidential* Right and Responsibilities for National Grid Customers in New York State." Furthermore, the very first sentence of the brochure states, "As a National Grid customer receiving *nonresidential* service in New York State, you have certain rights and responsibilities." Earlier versions of the brochure, that were provided to the Commission during this complaint investigation and to Complainant, substituted the term "Commercial" for "Non-Residential", and included language stating that service used for primarily residential purposes may be entitled to additional protections under the state's Home Energy Fair Practices Act. Earlier versions of the brochures are attached as Exhibit 5, and copies were previously provided to both Complainant and the Commission in this matter.⁴ Complainant's argument, adopted by the Informal Decision, that receipt of such brochures "would not alert the customer that they are a non-residential customer by the utility" is simply incorrect. (Exhibit 1 at pp. 10-11).

⁴ The Company sends the brochure annually to all of its non-residential customers in accordance with the Commission's regulations, and Complainant is presumed to have received them. Case No. 02-G-0225, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation of Complaint Procedures – Appeal by New York State Electric & Gas Corporation of the Informal Decision Rendered in Favor of Mr. Albert Silverman, filed in C-26358 (168349)*, "Commission Determination" (Issued and Effective October 25, 2002) (absent more adequate proof than a mere denial of receipt, complainant is presumed to have received bill inserts mailed by the utility in the ordinary course of business). The earliest copy of the brochure that had been maintained in the Company's records was the 2004 brochure; however, the brochures did not change significantly from year to year and were mailed each year in accordance with the Commission's regulations.

In this matter, multiple, continuous communications put the Complainant on notice that the cottages at Peconic Landing were being billed at a non-residential rate, including the non-residential rates brochure, the Application and the bills. The Complainant was in the best position to know when the cottages became occupied and used for primarily residential purposes, which might suggest that a residential rate could be available. It was incumbent on Complainant to so inquire.

3. The Customer is Responsible to Inform the Utility of Changes in the Use of the Premises that Affect Rate Classification; the Utility is Not Required to Respond to Clues to Determine Whether the Premises Become Eligible for an Alternate Rate.

Having ignored or discounted multiple forms of notice of the non-residential rate Complainant received over the years, the Informal Decision erroneously held that a series of prior Commission decisions – finding that customers were on notice of their non-residential rates, were responsible to notify the utility of a change in use, and were not entitled to bill adjustments prior to the date of inquiry – were wholly inapplicable in this matter because of the lack of the Con Edison language in National Grid’s rate brochures. This series of decisions, cited by National Grid in its position statement on informal review, are: *48th Street Owners*⁵; *500 West End Ave. Corp.*⁶; *Iannuzzi*⁷; and *Phipps Houses Services*⁸ (collectively referred to hereafter as the “*Con Edison Decisions*”). Compounding this error, the Informal Decision then gave credence to the very type of evidence that the Commission rejected over and over again in this line of cases, and improperly used this evidence to support the conclusion that National Grid was responsible to detect the change in use of the cottages and take action to apply a residential rate.

⁵ Full citation above.

⁶ Case Nos. 97-E-0928, *et al.*, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Compliant Procedures – Appeal by Consolidated Edison Company of New York, Inc. of the Informal Decision Rendered in Favor of 500 West End Ave. Corp. filed in C26358 (772979)*, “Commission Determination” (Issued and Effective March 14, 2001). (“*500 West End Ave. Corp.*”).

⁷ Full citation above.

⁸ Full citation above.

In the *Con Edison Decisions*, the Commission soundly and repeatedly rejected arguments by complainants that the utility should have known that premises qualified for a residential rate and was, therefore, required to take action to change the complainants' rate classifications based on evidence of: (i) notations or "codes" appearing on the customer's account documentation that seemed to be residential in character (*Phipps Houses Services*); (ii) patterns of customer billing inquiries and other types of interactions with the customer that might indicate residential-type occupancy of a premises (*48th Street Owners*); and (iii) changes in patterns of usage at the premises (*500 West End Ave. Corp.*). The sound underlying principle expressed and ratified by the Commission time and again in the *Con Edison Decisions* is stated concisely in *48th Street Owners*, "the utility is not required to respond to clues, but to proper inquiries regarding the correct rate."

Inexplicably ignoring this precedent, the Informal Review Decision cites three additional facts in support of its conclusion that retroactive rates are warranted: 1) at the time of the application, the utility was advised that 111 accounts were for "cottage homes"; 2) meters for the cottages were installed on different dates; and 3) a code noted on the cottage account documentation indicated that the premises were single-family homes. (Exhibit 1 at p. 12) The Commission has soundly rejected nearly identical facts in past cases.

As discussed above, the cottages did not qualify for residential rates at the inception of the accounts because they were under construction by a commercial developer; therefore, whether the ultimate design of the buildings as single-family homes was known to the utility at that time is irrelevant. The utility is not responsible to monitor a customer's account or to guess at a future date when the use of the premises would change to qualify for an alternate rate. *500 West End Ave. Corp.* ("nor was the utility responsible for checking the subsequent level of usage . . . to determine whether that level seemed high for the stated use"); *see also*, Case No. 03-G-0671, *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures – Cross Appeals by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery of New York and the New York City Housing Authority of the Informal Decision*

Rendered in Favor of New York City Housing Authority (182658), "Commission Determination" (Issued and Effective August 23, 2010) (utility has no obligation to monitor usage on accounts).

Moreover, the fact that service to the cottage accounts was turned-on in two large batches does not equate to knowledge of occupancy by individual residents on those dates; there are several other ways to interpret such information. The developer might turn-on the accounts during construction to enable heat inside dwellings for workers completing interiors or the developer may turn-on the gas in cottages as they are completed but before occupancy to enable marketing and sales activities to perspective residents. In this matter, the March 7 Letter from the developer indicated construction of the cottages in two phases, which aligns with the two turn-on dates for all of those accounts, and might signal nothing more than normal development activities. Apparently the utility was to assume that all of the residents moved into these cottages on the two "turn-on" dates, even though all of the accounts were activated in the name of Peconic Landing on those dates, not in the names of any individual residents. The speculative nature of this type of evidence should have been ignored altogether as Commission precedent required. However, contrary to Commission precedent, the Informal Decision concluded that "the fact that the meters were installed on different dates would lead to a conclusion that the service was **probably** turned on when the cottages were ready for occupancy." (Exhibit I at p. 12) (Emphasis supplied).

In short, the Informal Decision places the utility in an untenable position to identify and interpret circumstantial evidence regarding the changing nature of the account after the initial rate classification assignment. Regardless of the differences in content of the Company's brochures and Con-Edison's brochures, the over-arching principles set forth in the *Con Edison Decisions* are applicable in this case: the customer, not the utility, is in the best position to understand the use of the premises and communicate that information to the utility. In this matter, ample evidence demonstrated that Complainant knew or should have known that its cottages were being billed on the non-residential rate, and it was incumbent on Complainant to inquire whether

a residential rate might be available upon the change in use of the cottages. Yet Complainant never made such an inquiry until 2010.

CONCLUSION

For the reasons explained above, Complainant is not entitled to re-billing of the cottage accounts for six years prior to the date Complainant made its inquiry. National Grid respectfully requests that the Informal Decision be reversed.

Respectfully submitted,

National Grid
By its Attorney,

/s/ Katherine E. Smith
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Dated: September 23, 2014

Exhibit 1

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
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PUBLIC SERVICE COMMISSION

GARRY A. BROWN
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JAMES L. LAROCCA
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Commissioners



PETER MCGOWAN
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JEFFREY C. COHEN
Acting Secretary

August 8, 2014

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Mr. Shannon Villanueva
National Grid – Long Island
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Brooklyn, NY 11201

Subject: Informal Review Decision
Case #155032
Peconic Landing Apartments

Dear Mr. Farber and Mr. Villanueva:

As requested, an informal review of the complaint was conducted. Based on the information presented, staff's initial decision to direct the utility to retroactively bill base on a residential service classification rate and to refund any overpayment with interest is sustained.

Background

A single service application for the accounts in question was filed on March 7, 2001. A cover letter addressed to Keyspan Energy Delivery included with the application stated, "...our office authorizes you to make copies of the attached application in order to accommodate the number of gas meters required for the community. Specifically, it is our understanding that separate gas meters will be installed for the Community Center, Health Center, Apartment Building and the 111 individual cottage homes."¹ The letter also stated that load information had already been submitted. Among other items, the load list shows under cottages: heaters 110@100,000 BTU each, and water heaters 110@40,000 BTU each.

The utility established all the accounts on the non-residential service classification. On November 29, 2010, the customer's consultant wrote to the utility requesting that the 110

¹ See letter dated March 7, 2001 from Timothy B. Caron, P.E. of Retirement Living Services, LLC.

cottages be billed based on the residential service classification for six years. On February 28, 2011, the utility responded that the accounts' were classified as residential effective October 31, 2010. The consultant complained to the Office of Consumer Services (OCS). On June 6, 2012, OCS directed the utility to bill the accounts based on the residential service classification for six years and refund any over payment with interest. The utility requested an informal review.

Utility's Position

The utility's position is presented verbatim, with formatting changes, from its submittal dated March 5, 2013.

KeySpan Gas East Corporation d/b/a National Grid ("National Grid" or the "Company") provides this Position Statement in support of its request for informal review in the above-referenced matter with Peconic Landing Apartments and, on behalf of Peconic Landing, Utility Check Ltd. (collectively, "Complainant"). The Company requests informal review of the June 6, 2012 decision (the "Decision") by the Office of Consumer Services granting Complainant's request for a refund of alleged overcharges on its gas bill going back six years. For the reasons set forth below, the Company does not believe there is adequate basis for the refund sought by the Complainant and the Decision should be overturned.

BACKGROUND

Facts

Peconic Landing is a senior living facility located in Greenport, New York. The facility consists of the following: (1) 110 separately metered dwellings; each dwelling is a stand-alone, single-family cottage (collectively, the "Cottages"); (2) a 132-unit apartment building, divided into three sections; each section of the building has a separate gas meter; and (3) a Health Center and Community Center that are separately metered. The Company received one combined gas and electric application for utility service to the facility signed by a Peconic Landing representative and dated May 29, 1999. The Complainant then wrote a letter dated March 7, 2001 authorizing the Company to use the joint application for all of the accounts. The application completed by the Complainant, as well as the accompanying non-residential rights and responsibility brochure (discussed below) and the Company's non-residential rate schedule, clearly indicated the Complainant was applying for non-residential service.

The accounts for the Cottages, all of which were unoccupied, were subsequently activated, all in the name of Peconic Landing, on a non-residential rate over a period of several months beginning on October 5, 2001. Since the application for gas service was originally submitted by the contractor/developer of the Peconic Landing facility, and the Cottages were not occupied at the time, the Cottages were not eligible for a residential rate at the time of the application.

On November 7, 2010, the Company received a request for a rate change from Peconic Landing Apt.'s Rate Consultant ("RC"). At the time of the request, Peconic Landing was being billed under the classification non-residential 170, which is the

applicable rate code for all non-residential space heating and general purposes. The RC requested a change to residential 140 claiming that each individual cottage was used for residential purposes by the tenants renting the premises.

While the complainant received bills and brochures from the Company for years showing that the account was on a non-residential rate, there has been no evidence presented, nor has it been suggested, that complainant ever advised the Company that the nature of the use of the Property was incongruent with the rate classification prior to the November 7, 2010 request.

Upon receiving the rate inquiry from complainant in November 2010, the Company immediately undertook an investigation and bill adjustments were made thereafter. The Company offers the following timeline with regard to the complainant's gas account for the Property:

October 2001-August 2002 – accounts for the unoccupied Cottages appropriately set-up on a non-residential rate;

November 7, 2010 – RC first contacts the Company to request a change in rate;

November 7-December 7, 2010 – the Company conducts an investigation of the Peconic Landing Apts. rates;

December 7, 2010 – the gas rate at the Property is changed prospectively to residential 140; an adjustment in the amount of \$11,325.72, plus interest of \$412.82 is applied to Acct #967-50-4152-1 retroactively to the date of inquiry, November 7th.

March 15, 2011 – Complainant contacts National Grid to advise that he is seeking a retroactive adjustment for 6 years;

The change to the gas rate at the Property was made because the Company concluded that Peconic Landing Apartments was improperly classified given the present individual metering and residential use of the cottages. This entitled the accounts to be changed to residential 140 rates for the services. As shown above, all 110 accounts were changed to residential rate 140 in December 2010 and credited from the date of inquiry.

Rate Brochure

Consistent with the Commission's regulations, National Grid annually sends a brochure to every customer explaining the Company's rates and terms of service, and advising them of the availability of other rates. An example of a recent brochure is attached hereto as Exhibit 1. The Company's Nonresidential Rights and Responsibilities brochure is also regularly provided to new non-residential customers when initially applying for service, as is a copy of the Company's then-current non-residential rate schedule.

In addition to the brochure, customer bills clearly indicate the billing rate – including whether the customer is paying a residential or nonresidential rate.

Procedural History

In March 2011, the RC requested documentation and advised the Company that he was going to file a complaint with the Public Service Commission (“PSC”) requesting a credit back for 6 years. National Grid received the QRS complaint on June 10, 2011. Not satisfied with the adjustments applied by the Company, Complainant asserted that he was entitled to an adjustment dating back six years. The Company complied with the RC’s request for documentation and sent copies of the diary, error messages, tax exempt forms and a 24-month bill history to the PSC on July 7, 2011. Shortly after July 7, 2011, and upon further investigation, the original application used for all 110 cottages was located and provided along with the customer’s correspondence.

On November 22, 2011, the PSC initially directed National Grid to adjust back six years from the date of inquiry on all 110 accounts. In its June 6, 2012 QRS Closing Letter to the Consultant (attached hereto as Exhibit 2), the Office of Consumer Services noted that the Company should have known the Peconic Landing Apartments accounts were associated with individual retirement homes:

...while the company maintains that all the accounts should be adjusted from the date of consultant/customer first inquiry, I believe that the information on the service application(s) and the fact that the accounts were new service and 110 premises had to have individual account for individual residents installed, the company should have set the accounts at the Gas Rate 140 from inception.

In the instant request for an informal review, the Company seeks a review of the finding with regard to the appropriate re-billing period in light of the bill inserts/brochures the Company provided to the Complainant, which should be found to constitute adequate notice.

DISCUSSION

A Bill Adjustment Beyond the Date of Inquiry Is Not Appropriate

The question presented in this proceeding is whether Complainant is entitled to an additional retroactive adjustment to his gas bill beyond the adjustments previously applied by the Company.

The Commission has consistently found that a refund back to the date of the customer’s inquiry is appropriate where a customer billed on a nonresidential rate failed to take advantage of a more economic, residential rate classification. *See, e.g., In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures—Appeal by Phipps Houses Services of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc.* Case No. 07-E-0598, Commission Determination (Issued and Effective October 17, 2011); *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint*

Procedures--Appeal by Mr. John Iannuzzi of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc., Case 02-E-1160, Commission Determination (Issued and Effective May 23, 2003); and *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures—Appeal by Mr. Nelson Yan of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc.*, Case 05-E-1212, Commission Determination (Issued and Effective July 18, 2008). The facts presented in the instant complaint are similar to those presented in these cases.

Indeed, the factors on which the Commission based its decision in *Yan, Iannuzzi* and the other cases in which it found rebilling to the date of inquiry was appropriate are present in the instant action, specifically (i) that the Company sent the Complainant gas bills and annual brochures advising that the account was on a non-residential rate and (ii) the Complainant failed to take advantage of other available rates.

Underlying the Commission's decisions in these cases is the notion that the customer, not the utility, is best positioned to understand the use of the premises and communicate that information to the utility. Upon receipt and review of the Complainant's initial application for service, and prior to the use and occupation of Complainant's property by any residents, the Company appropriately placed Complainant on a non-residential rate. The Complainant was thus subsequently responsible for notifying the Company when residents began to occupy the property so that the Company could alter the Complainant's rate to reflect the change in character of use. Section 1.3 of LEAF 18 of the Company's tariff speaks to such an expectation, "The Company will endeavor to assist...in the selection of his Service Classification which may be most favorable to his requirements, but in no way does the Company make warranty, express or implied, as to the rates, classification or provisions favorable to future service to, or future requirements of, any applicant or customer." The Company's position on this issue is supported by previous Commission findings. In *Appeal by 500 West End Ave. Corp of Informal Decision in Favor of Con Edison*, Case 97-E-0928, Commission Determination (Issued and Effective November 14, 2001) and *In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures – Appeal by Presbyterian Hospital/Phipps Houses of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc.*, Case 99-E-0408, Commission Determination (Issued and Effective November 14, 2001) the Commission found that the owner of a dwelling is not entitled to rebilling at the utility's residential rate where the utility had billed them at commercial rate because the owners failed to inform the utility that previously unoccupied apartments were presently occupied.

The Company regularly mailed Complainant bills and annually sent Complainant brochures which indicated that Complainant was on a non-residential rate. Despite Complainant's knowledge that the property was presently occupied and being used for residential purposes, Complainant made no inquiries with respect to the billing. Because the Company was never made aware of a change in the character of service at the Property that would warrant a change from the non-residential rate, there is no

basis to conclude the Company should have known to change the rate prior to the date of inquiry from the Complainant. In *Weinreb*, the Commission determined that:

Requiring refunds in response to after-the-fact claims by customers that during their original oral applications they made clear their entitlement to the residential rate would be inappropriate, because what actually occurred during such applications generally cannot be known. Providing refunds under these circumstances would relieve customers who have not responded to subsequent and repeated written notification of the residential rate's availability of responsibility for communicating promptly with the utility if they believe that they are not being correctly billed.

See, In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures--Appeal by Weinreb Management of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc., Case 07-M-1530, Commission Determination (Issued and Effective October 17, 2011). As in *Weinreb*, the Complainant has failed to respond to subsequent and repeated written notification of their non-residential rate as well as the residential rate's availability and should not be rewarded.

The Commission's decision in *Iannuzzi* is also instructive. In *Iannuzzi*, the Complainant sought a retroactive bill adjustment for a multistory brownstone that had several accounts on a nonresidential rate because it had been a multi-dwelling building at one point in its history, notwithstanding that the Complainant used the premises exclusively as a single-family residence for seventeen years. Con Edison granted the Complainant a bill adjustment back to the date of inquiry. The Complainant argued that Con Edison knew, or should have known, of the residential character of the property and took no steps to advise the Complainant of available rates. The Commission did not find this argument convincing:

Complainant did not contact Con Edison and request on SC No.1 [residential service] until February 2001. After the utility investigated and confirmed that complainant was using all floors of the house for his own residential purposes, it transferred both accounts to SC No. 1 and corrected the billing back to February 2001. Complainant asserts that he never received the 1992 SC No. 2 message concerning potential availability of residential rates (or the 1992 and subsequent annual notification of rights brochures). This assertion, made ten years after the fact, is not persuasive. In *48th Street Owners Corp.* and *500 West End Ave. Corp.*, we determined that the notices described earlier were reasonable and adequate, and that Con Edison had properly distributed them to its SC No. 2 customers (in the case of the SC No. 2 message) and to its nonresidential customers (in the case of the 1992 and subsequent annual notice of rights brochures). Therefore, we find that complainant, who was a nonresidential customer served at SC No. 2, was on notice since 1992 of the availability of the residential rate. Under the circumstances, complainant, who did not request SC No. 1 until February 2001, had no right to rebilling on that rate for prior periods. [pp. 6-7]

In denying the complaint, the Commission held that the annual billing brochures sent to the customer constituted adequate notice of the availability of alternate rates. A similar argument was asserted and rejected by the Commission in *Yan*, with the Commission holding that the inclusion of a nonresidential brochure should have informed the customer he was being billed on a nonresidential rate:

The Complainant received Con Edison's nonresidential brochure once a year; that brochure, titled "Your Rights and Responsibilities as a Non-Residential Customer," in and of itself was a clear indication that complainant was being billed at a nonresidential rate. [p.7]

As in *Iannuzzi*, the Complainant's failure to read the information provided by the Company concerning the availability of an alternate rate is unpersuasive.

CONCLUSION

For the reasons explained above, National Grid properly calculated Complainant's bill adjustment and there is no basis to require an additional refund. The Decision should be overturned and Complainant's request for a retroactive adjustment denied.

Complainant's Position

The complainant's position is presented verbatim from his position paper submitted on March 5, 2013.

Background

This customer, through its consultant, requested retroactive re-billing with interest, on NGRID's Rate 140 for six years from the date of its inquiry for the 110 accounts associated with the above complaint. These accounts represent individual cottages used for residential associated purposes, which are part of the cooperative Peconnic Landing Southhold.

FACTS

1. NGRID's tariff requires non-residential applicants file a written application for gas service upon application for all non-residential requests for service. Leaf No. 18,II. 2.A.1.4 states:

The applicant must make separate application for each meter or type of service for **each** residence, apartment, business building or location of which gas service is desired. [Emphasis added.]¹

Footnote¹ PSC NO: 1 GAS, KEYSpan GAS EAST CORP. DBA BROOKLYN UNION OF L.I., LEAF 18, REVISION: 0, EFFECTIVE 07/01/1999.

2. NGRID secured one service application, dated 5/9/01, marked for all of the gas and electric accounts for the entire development.²

Footnote² In addition, LIPA secured one service application, dated 6/3/1999, also marked for all of the gas and electric accounts for the entire development. Both applications as well as the load letter are part of the case file.

3. The load letter provided by the General Contractor at the time of application informed NGRID that gas service was to be provided to :
 - Apartments
 - Health Community Center
 - 110 cottages
4. National Grid applied the **residential** category code (0002) on its master records for all 110 cottages' accounts. Internal procedures state that "00002" is for a "Single Family Occupancy. See Exhibit I
5. NGRID erroneously initiated service for all 110 cottages on the non-residential Rate 170.
6. Service Classification NO. 2 Non-Residential Service (Rate Codes: 160, 170, 250) is: Applicable to Use of Service for:
All non-residential purposes excluding Multi-Dwelling, and including building heating [Emphasis added.]³

Footnote ³ PSC NO: 1 GAS, KEYSpan GAS EAST CORP. DBA BROOKLYN UNION OF L.I., LEAF 123, REVISION: 0 EFFECTIVE 3/18/1999

7. Not all 110 accounts were turned on, on the same date. On 10/5/01, 43 accounts were turned-on. On 2/15/02, 63 accounts were turned-on. On 8/23/02 the health care building was turned-on.
8. NGRID provided this customer with "Summary Billing" which list all of the accounts on one bill, and totals the individual charges so that the customer pays one bill for all of the accounts.
9. Error messages for all of the accounts, which NGRID provided, indicate there were 497 high bill investigations (error message 171), and 59 low bill investigations (error message 170) and 3 stop meter investigations (error message 169).⁴

Footnote ⁴ Though the Consultant requested the information. NGRID did not provide the errors messages from turn/on for all 110 accounts.

10. The account numbers indicate that 27 of the cottages has a previous resident and one account had two previous residents.
11. As a result of the Consultant's inquiry regarding the apartment building, NGRID changed the rate from the Non-residential Rate 170 to the Residential Multiple Dwelling Rate 151, and re-billed for six years from the date of inquiry.
12. As a result of the Consultant's inquiry regarding the cottages, NGRID changed the rate and rebilled each of the accounts on the Residential Rate 140, limited to the date of inquiry.

Discussion

By letter dated June 6, 2012, Mr. LaBombard determined that the company should have set the accounts at the Gas Rate 140 from inception, and, therefore, instructed NGRID to adjust the accounts from the date the account was changed to 140 going back the balance of six years plus interest. Mr. LaBombard stated, "I believe that the information on the service application(s) and the fact that the accounts were for new service, and 110 premises had to have individual account[s] for individual residents...the company should have set the accounts at the Gas Rate 140 from

inception.” Mr. LaBombard found that his review of the service application indicated that National Grid should have been well aware that these accounts were associated with individual retirement homes which qualify for the 140 Gas Rate.

NGRID appealed the determination stating that Commission precedent established in Case 02-E1160, *Ianuzzi v. Con Edison* regarding annual notices sent to non-residential customers support the company’s position not to provide the retroactive six-year adjustment directed in the determination. The Consultant disagrees.

Firstly, unlike in the *Ianuzzi* case, in this case, NGRID incorrectly billed these residential accounts on the non-residential rate, a rate for which the accounts did not qualify. The fact that NGRID applied the correct internal category code to these account proves that the customer provided the company with adequate information to select the correct rate for all of their accounts. The customer noted on its application that service was to be provided to a retirement community. The load letter, which was included with the application, notified NGRID that service was to be provided to apartments, a health and community center and “110 cottages.” Thus, the accounts did not qualify for the non-residential Rate 170, which is to be used for “non-residential purposes.” See a copy of the tariff for the Service Classification No. 2, for Rate 170, enclosed as Exhibit 2.

Secondly, the customer claims that they never received any brochures. A review of the brochures NGRID provided in discovery indicates that there was no brochure sent in 2001 or 2002, the years that the customer initiated service.

Thirdly, NGRID was called upon to investigate 497 high bill investigations (error message 171), and 59 low bill investigations (error message 170). According to the utility’s Clerical Functions, in response to EM 170 and 171, “the Customer Account Representative reviews the account history, contacts the customer for information or, if necessary, prepares a field investigation for a rate verification.” See Exhibit 3. Despite the preponderance of error messages NGRID failed to correct the rate until the Consultant initiated its inquiry regarding the wrong service classification. Notwithstanding the Consultant’s request, NGRID has failed to provide information or documentation regarding any of these investigations.

Finally, in the *Ianuzzi* case cited by NGRID, the Commission found that notices “were reasonable and adequate, and that Con Edison has properly distributed them to its SC NO. 2 customers.” In that case, the Commission found that Con Edison clearly stated:

If you or your employees use the premises mainly as a residence you may be eligible to receive electric service under a residential service classification. Reclassification of your account under residential rates may lower you electricity bills.

Therefore, the Commission found that the “complainant, who was a nonresidential customer served at SC No. 2, was on notice since 1992 of the availability of the residential rate.” In this case, however, contrary to the PSC Case cited, the

brochures were completely inadequate in that they were silent with regard to service classification information and the availability of the gas residential rates.⁵

Footnote ⁵ Although the Consultant requested a copy of all of the brochures the company claims it sent to the customer, the company provided only 2011, 2010, 2009, 2008, 2005, 2004 and 2003, and it must be assumed no others exist.

In Case No. 94-E0866, Appeal by Consolidated Edison Company of New York, Inc., of the Informal Decision Rendered in Favor of Park Avenue Synagogue, the Commission confirmed that at the time of application, it is the utility's responsibility to help the customer in rate selection. Citing Brooklyn Edison Co., the Commission found that "language used in this decision clearly indicates that a utility must make reasonable efforts to inform customers of the existence of rates which may be beneficial to them. In view of the complicated rate schedules that are in operation in many companies, consumers are entitled to receive the help of the utility."⁶

Footnote ⁶ Brooklyn Edison Co., Inc. 28 PUR (NS) 193, 195 (1939)

Case 93-G-0122 regarding BFN Realty Et al, the Commission stated:

Utilities "must assist applicants in determining what is the most beneficial rate," and must "provide adequate notification to each applicant of all available rates." The Commission also said that this notice should be provided "at the time of application," and "must be sufficient to allow a customer to make an informed decision about whether additional information is needed and to ultimately select the most beneficial service application."⁷

Footnote ⁷ Appeal by BFN Realty Et al, of the Informal Decision in Favor of the Brooklyn Union Gas Company. Commission Determination (May 23, 1996)

16 NYCRR Part 13.2 (a) requires utilities to give nonresidential customers, at the time of their application for service and at least annually after service is begun, a notice "describing the commonly used non-residential service classification and their rates," as well as "an offer of written guidelines regarding eligibility requirements for the utility's service classifications." However, the Commission stated in Case 94-G-0672,

Therefore, in a given case, even if a utility has met the requirement of providing annual notification to nonresidential customers, the question of whether the utility has met its obligation under its tariff to assist the customer in the rate selection and to give reasonable notice of availability of rates to applicants and existing customers is an issue which may only be determined by examining the information that was provided to the applicant and the customers and the content of the information provided.⁸

Footnote ⁸ CASE 94-G0672 — Appeal by Rosehill Condominium of the Informal Decision Rendered in Favor of Consolidate Edison Company of New York, Inc.

Assuming the brochures NGRID produced were actually sent out and received by the customer, a fact that is not conceded, NGRID's brochures do not contain language similar to that in the Con Edison brochures, which were presented in the Ianuzzi case. Unlike Con Edison's brochures, the language in the NGRID brochures

would not alert the customer that they are considered a non-residential customer by the utility.

More, recently, in Case 09-E-0650, regarding North Fork Bank, the Commission found in favor of the customer stating:

Since it was not until July 2005 that the earliest Rights and Responsibilities brochure providing adequate notification of the availability of and need for the customer to request service under SC No. 9D in writing was printed, North Fork did not receive adequate notice of the rate through that brochure. Accordingly, North Fork is entitled to rebilling at SC No. 9D back to the date the account was established (since that was not more than six years prior to its complaint). Moreover, while utility records for North Fork's account confirm that this brochure was mailed to it on November 6, 2002, less than two months after it took service, no copy of the Welcome Package brochure provided North Fork in 2002 was submitted. Thus it is not known whether the brochure sent contained the information included in the 2003 and 2006 brochure, and even if it did, that information, alone, would not have provided sufficient notice of the need for complainant to notify the utility in writing of the facts qualifying it for the discounted rate. Therefore, North Fork is entitled to rebilling back to initiation of service in September 2002.⁹

⁹ Footnote In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR in Relation to Complaint Procedures-Appeal by North Fork Bank of the Informal Decision Rendered in Favor of Consolidated Edison Company of New York, Inc. (515654). Commission Determination (Issued and Effective October 22, 2012)

Conclusion

Whereas these accounts never qualified for the non-residential Rate 170, for the reasons stated herein, we ask that you uphold intake's decision and direct NGRID to rebill the accounts on Rate 140 for six years from the date of the consultant's inquiry with interest.

Analysis

The issue to be addressed in this case is whether the utility is required to rebill the accounts in question based on the residential service classification for six years and refund any overpayment with interest. The fact that the accounts qualify for residential service classification is not in dispute.

The utility cited several Commission decisions to support its position that the complainant received rate information in the annual *Rights and Responsibilities* brochure. However, as the complainant points out the *Rights and Responsibility* brochure that National Grid mails annually to non-residential customers differs from the Con Edison brochure that the Commission found adequately informed customers that the residential rate was available to those customers who use service mostly for residential purpose.

National Grid's brochure, "*Nonresidential Rights and Responsibilities for National Grid Customers in New York State*," does not contain language similar to that in the Con Edison

brochure. On the contrary, the only information regarding rates in the brochure, under "Eligibility for Residential Rates," states "Certain religious organizations, farms, community residences as defined in the Mental Hygiene Law, and posts of halls owned or leased by a not-for-profit corporation that is a veteran's organization, **may** be eligible for billing at residential rates".² This language would not have put the customer on notice that the accounts in question might be eligible for the residential rate. Therefore, this case differs from the cases cited by the utility.

The gas service was installed for new construction and the utility was advised that the 111 accounts were for heat and hot water for "cottage homes." In addition, the fact the meters were installed on different dates would lead to a conclusion that the service was probably turned on when the cottages were ready for occupancy. Moreover, there is no question that the utility was aware that these cottages were one-family homes as it categorized the accounts as "0002."

The complainant's attorney has successfully rebutted the utility's argument that the customer should have known that the accounts were being incorrectly billed. There is no evidence to support a conclusion that the customer was aware that the non-residential rate was incorrect.

Decision

Based on the information presented, staff's decision directing the utility to adjust the accounts retroactively for six years from the date of the inquiry to the utility is sustained. Therefore, the utility is directed to comply with staff's June 6, 2012 determination that all accounts be rebilled based on the residential rate for six years from November 29, 2010 and to refund any overpayment with interest.

The utility is to notify me within 30 days that it has complied with this decision. If the utility wishes to appeal, it must appeal within 15 days.

APPEAL PROCEDURE

If you believe that this decision is incorrect, you may appeal to the Commission. The basis for an appeal to the Commission is limited to one or more of the following grounds:

- (1) The hearing officer made a mistake in the facts in the case or in the laws or regulations which affected his or her decision; or
- (2) The hearing officer did not consider evidence presented at the hearing or review, which resulted in an unfavorable decision; or
- (3) New facts or evidence, not available at the time of the hearing, have become available, and could affect the decision on the complaint.

If you choose to appeal, your appeal must be in writing and must contain an explanation of the facts or conclusions in the decision with which you disagree, the reasons for your disagreement,

² National Grid's Brochure (8/10)

the relief or remedy sought from the Commission, and documentation of your position or legal arguments supporting your position.

The appeal should be filed within fifteen (15) days after the informal hearing or review decision is mailed, and may be filed electronically or by regular mail. To file electronically, e-mail your appeal to the Acting Secretary of the Public Service Commission, Jeffrey C. Cohen, at:

Secretary@dps.ny.gov

If you are using regular mail, send your appeal letter to:

Kathleen Burgess, Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

A copy of the appeal letter should also be sent to the opposing party. Appeals of Informal Hearing Decisions become a matter of public record and are listed on the Commission's website. Both your appeal letter and the informal hearing decision will be available to members of the general public (subject to limited redaction in the case of residential customers)

The Commission may make a determination on your appeal, reject it, return the case to the informal hearing officer for additional consideration, order a formal evidentiary hearing on the complaint or take such other action as it deems appropriate.

Sincerely,

Ramona Muñoz
Informal Hearing Officer
Office of Consumer Services

Cc: Ms. Ellen Bindler

Exhibit 2

No. 24731

**APPLICATION AND CONTRACT
FOR NON-RESIDENTIAL CUSTOMERS**

This is your application for electric service, gas service or both. As a customer, you agree to pay for the service supplied at the rates, charges and terms of your service classification as prescribed in our tariff and rate schedule.

Service classification and rates may change from time to time and our service will be supplied in accordance with all such changes. A copy of our current non-residential rate schedule is enclosed with this application, and the tariffs are available in every business office. Customer representatives are also available to answer questions and provide assistance.

In addition, we have enclosed a brochure which details your rights as a non-residential customer. It also explains our obligations and procedures for handling any inquiries you may have.

Please read all questions and answer them to the best of your knowledge. In the event the information you provide is not sufficient to process your application, we will notify you of the additional information required.

Please be sure this application is signed in Part 5 before returning it to us. Thank you.

KEYSPAN
Energy Delivery

PART 1 - ACCOUNT INFORMATION

TYPE OF SERVICE YOU ARE APPLYING FOR		ELECTRIC <input type="checkbox"/>	GAS <input type="checkbox"/>	BOTH <input checked="" type="checkbox"/>	TYPE OF SERVICE TO BUILDING NOW?		<input type="checkbox"/> ELEC	<input type="checkbox"/> GAS	<input checked="" type="checkbox"/> NONE
P	ACCOUNT NAME Peconic Landing at Southold, Inc.								
DOING BUSINESS AS (If other than account name)									
L	SERVICE ADDRESS	NUMBER STREET	SUITE NO.	VILLAGE	ZIP				
	1205	Route 025		Greenport	N.Y. 11944				
E	STARTING ON DATE	<input checked="" type="checkbox"/> OWN <input type="checkbox"/> RENT	TELEPHONE BUSINESS NUMBERS	HOME	CONTACT				
	3/01/02		()	()	()				
E	LANDLORD/AGENT NAME	ADDRESS			TELEPHONE NUMBER				
	RETIREMENT Living Services	Hartford, CT			18001505-6688				
A	IF YOU PREFER TO HAVE THE BILLS AS WELL AS ALL OTHER INFORMATION MAILED TO AN ADDRESS OTHER THAN THE SERVICE ADDRESS, PLEASE PROVIDE YOUR MAILING ADDRESS HERE:								
	MAILING ADDRESS	NUMBER STREET	VILLAGE	STATE	ZIP				
	40 BLS	100 ALlyn STREET	HARTFORD	CT	06103				
S	TAX EXEMPT STATUS	<input type="checkbox"/> TAXABLE	<input checked="" type="checkbox"/> NON-TAXABLE	<input type="checkbox"/> PARTIAL TAX EXEMPT	A COPY OF YOUR TAX EXEMPT CERTIFICATE REQUIRED IF APPLICABLE				
E	TAXPAYER IDENTIFICATION NUMBER	218940 (EXEMPT ORGANIZATION No.)							
	BANK NAME	ACCOUNT NUMBER(S)	<input checked="" type="checkbox"/> CHECKING	<input type="checkbox"/> SAVING					
	North Fork Bank	021407912							
	TRADE REFERENCE	ADDRESS	PHONE NUMBER						
	EAST ISLAND EXCAVATION		1631924-0086						
PLEASE LIST ALL PARTNERS OR OWNERS OF YOUR BUSINESS IF APPLICABLE									
P	NAME	POSITION/TITLE							
	William Thompson	PRESIDENT							
	ADDRESS	VILLAGE	PHONE NUMBER						
	FEATHER HILL - P.O. Box 430	Southold, NY 11971-0430	(888) 273-2664						
R	NAME	POSITION/TITLE							
	Raymond A. Wesnofske	VICE PRESIDENT							
	ADDRESS	VILLAGE	PHONE NUMBER						
	FEATHER HILL - P.O. Box 430	Southold NY 11971-0430	(888) 273-2664						
I	IF YOU HAVE HAD A NON-RESIDENTIAL ACCOUNT IN THE PAST OR IF YOU CURRENTLY HAVE A NON-RESIDENTIAL ACCOUNT, PLEASE FILL IN THIS SECTION. (CIRCLE ONE) CURRENT or FORMER ACCOUNT INFORMATION.								
N	ACCOUNT NAME	NUMBER STREET	SUITE NO.	VILLAGE	ZIP				
					N.Y.				
T	ACCOUNT NUMBER(S)								
	IF THIS IS A CURRENT ACCOUNT, DO YOU WANT THIS SERVICE SHUT OFF?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	IF YES, INDICATE DATE TO SHUT OFF SERVICE					

PART 2 - METER ACCESS INFORMATION outside.

WHEN ACCESS CANNOT BE OBTAINED FOR A SPECIFIED PERIOD, YOU OR THE PERSON CONTROLLING ACCESS TO THE METER(S) WILL BE SUBJECT TO NON-ACCESS CHARGES AND POSSIBLE TERMINATION OF SERVICE AS SPECIFIED IN THE TARIFF, RULE 11.3D.2. IN ORDER TO PROVIDE BILLS ON ACTUAL READINGS, WE MUST HAVE ACCESS TO YOUR METER(S). IF YOU DO NOT CONTROL ACCESS TO YOUR METER(S), PLEASE FILL IN THIS SECTION.

WHO CONTROLS ACCESS TO YOUR METER NAME

ADDRESS NUMBER STREET SUITE NO. VILLAGE ZIP N.Y.

ACCOUNT NUMBER(S)

PART 3 - SERVICE AND RATE CLASSIFICATION INFORMATION

Rates for each service classification are different because the cost to provide service is different. You, the customer, qualify for a service classification if you meet the eligibility conditions of that classification. Further, we will endeavor to assist in the selection of your most favorable rate classification.

If served by multiple rate classifications at the same location, you will not be permitted switchable circuits (electric) nor switchable thermal requirements (gas) between the multiple classifications.

To insure proper billing, you must notify us in writing if use of service or equipment changes in the future.

Please answer the following questions accurately and completely. The information provided here will assist us in determining the proper service classification for your account. If service information you provide is inaccurate or incomplete, you may be subject to backbilling or may be precluded from receiving a refund for overcharges from the resulting incorrect billing.

TYPE OF BUSINESS <u>RETIREMENT Community</u>		SIZE OF YOUR PREMISES		SQUARE FEET	
DO YOU PLAN TO LIVE AT THE PREMISES <input type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, WILL THE SERVICE BE USED PRIMARILY FOR RESIDENTIAL PURPOSES?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
PREMISES USED FOR:		<input type="checkbox"/> CHURCH <input type="checkbox"/> FACTORY <input type="checkbox"/> RESTAURANT/CATERING HALL <input type="checkbox"/> OFFICE <input checked="" type="checkbox"/> MULTI FAMILY DWELLING		<input type="checkbox"/> SCHOOL <input type="checkbox"/> HOSPITAL <input checked="" type="checkbox"/> NURSING/ADULT HOME <input type="checkbox"/> RETAIL <input checked="" type="checkbox"/> 5 OR MORE UNITS	
<input type="checkbox"/> THEATRE <input type="checkbox"/> DAY CARE CTR. <input type="checkbox"/> WAREHOUSE		<input checked="" type="checkbox"/> OTHER (Specify: <u>RETIRE. COMM.</u>)			
DOES THE PREMISES CONTAIN A COMMUNITY ROOM, CAFETERIA OR MEETING ROOM WHICH HOLDS 70 OR MORE PEOPLE?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
NORMAL OCCUPANCY: <input checked="" type="checkbox"/> 70 OR MORE <input type="checkbox"/> LESS THAN 70					
TYPE OF HEAT		<input checked="" type="checkbox"/> GAS <input type="checkbox"/> ELECTRIC <input type="checkbox"/> OIL <input type="checkbox"/> OTHER			

WHAT TYPE OF BUSINESS PREVIOUSLY OCCUPIED THIS LOCATION? AGRICULTURAL/RESIDENTIAL

ELECTRIC	Estimated Monthly Connected Load (kw/Month)
1) Service used for	
<input type="checkbox"/> Hall lights, elevator and other common areas only.	
<input type="checkbox"/> Lights	
<input type="checkbox"/> Motors _____ HP	
<input type="checkbox"/> Miscellaneous Equip.	
<input type="checkbox"/> _____	
<input type="checkbox"/> _____	
<input type="checkbox"/> Air Conditioning	
<input type="checkbox"/> Heating	
TOTAL	
2) Estimated Elec. Monthly Load Demand	
<input type="checkbox"/> LESS THAN 7 KW <input type="checkbox"/> 7 KW OR MORE	
<input type="checkbox"/> OVER 145 KW (June-Sept.) or 500 KW (Oct.-May) <input type="checkbox"/> UNKNOWN	
3) Is there any significant change in use from the previous customer?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Describe Change: <u>PROPERTY PREVIOUSLY undeveloped; electric services will be new accounts.</u>	

GAS	Estimated Monthly Connected Load (Thms/Month)
1) Service used for	
<input checked="" type="checkbox"/> Cooking	<u>7</u>
<input type="checkbox"/> Hot Water	
<input type="checkbox"/> Heating	
<input type="checkbox"/> Air Conditioning	
<input type="checkbox"/> Vehicular Fuel	
Alternate Fuel Type	
<input type="checkbox"/> Temperature Controlled	
<input type="checkbox"/> Interruptible	
<input type="checkbox"/> Transportation	
2) Is your application for new or additional gas use at this location?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If YES, your representative will verify the availability of gas supply at your location and will contact you with this information.	
3) Is there any significant change in use from the previous customer?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Describe Change: <u>GAS SERVICE IS NEW; NO PREVIOUS/EXISTING GAS SERVICE TO PROJECT SITE.</u>	

AN ELECTRIC LOAD LETTER IS REQUIRED IF THERE IS NO EXISTING SERVICE TO THE PREMISES. AN ELECTRIC LOAD LETTER MAY ALSO BE REQUIRED IF THERE WILL BE A SIGNIFICANT INCREASE IN ELECTRIC USAGE AS DETERMINED SOLELY BY US FROM THE PREVIOUS OCCUPANT. AN ELECTRIC LOAD LETTER CAN BE OBTAINED FROM YOUR ELECTRICIAN OR ARCHITECT/ENGINEER.

PART 4 - DEPOSIT INFORMATION

As a new customer you are required to provide a monetary deposit when applying for service. The deposited amount shall not exceed a doubling of your estimated highest bill. The deposit can be adjusted for actual billing. You may request that your account be reviewed to assure that the deposit is not excessive. Deposit alternatives which provide a level of security equivalent to cash, such as irrevocable bank letters of credit and surety bonds, may be accepted.

PART 5 - SIGNATURE

FOR NEW SERVICE INSTALLATION:

THE APPLICANT CERTIFIES THAT: (Circle A or B)

- A) I am the owner of the real property onto which proposed service facilities shall be installed and further, I am aware that the Utilities are not responsible for the permanent restoration on private property.
- B) I have obtained the permission of the owner to install Electric and/or Gas service facilities and further, that said owner is aware that the Utilities are not responsible for permanent restoration on private property.

In addition, applicant understands that if the Utility installs a new gas service facility at applicant's request and the service is not used within 6 months, applicant must pay for the entire installation cost of the installation in accordance with the Gas Tariff.

AFFIX CORP.
SEAL HERE (OR
CASH AND FILM
NOS.) OR
CERTIFIED
COPY OF
BUSINESS
CERTIFICATE IF
NOT A
CORPORATION

I/WE HEREBY CERTIFY THAT THE ABOVE NAMED CORPORATION/BUSINESS IS DULY ORGANIZED AND EXISTING UNDER THE LAWS OF _____
NAME OF STATE

THE APPLICANT FURTHER AGREES TO PAY THE APPLICABLE RATES AND CHARGES FOR THE ELECTRIC AND/OR GAS SERVICE HEREIN REQUESTED AND THAT THE APPLICANT WILL BE BOUND BY AND COMPLY WITH THE RULES AND REGULATIONS OF THE COMPANY APPLICABLE THERETO.

(X) Raymond G. Wesnofske V.P.
SIGNATURE OF OWNER, OFFICER OR AUTHORIZED AGENT

2/28/01
DATE SIGNED

RAYMOND G WESNOFSKE V.P.
PRINT NAME AND TITLE

Tom Daye
SIGNATURE OF UTILITY REPRESENTATIVE

EMPLOYEE NO.: 232601

5/9/01
DATE SIGNED

PART 6 - PLEASE DO NOT WRITE IN THIS AREA - FOR OFFICE USE ONLY

ACCOUNT NUMBER	CATEGORY CODE	RESUMING DEMAND <input type="checkbox"/> YES
ELECTRIC RATE CODE	GAS RATE CODE	SEASONAL ACCOUNT <input type="checkbox"/> YES <input type="checkbox"/> NO

Tom Daye 5/9/01

DEPOSIT AMOUNT	RECEIPT NUMBER	DATE PAID
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Exhibit 3



RETIREMENT
LIVING SERVICES, LLC

March 7, 2001

Mr. Tom Doyle
Keyspan Energy Delivery
448 East Main Street
Patchogue, NY 11772

SUBJECT: Application for Gas and Electric Service for the
Peconic Landing CCRC - Village of Greenport, Southold, NY

Dear Tom:

As requested, I have completed the application for gas and electric service in support of the Peconic Landing CCRC project. I have intentionally left the gas and electric loading information blank given that Tom Hartley of the Becker-Morgan Group (M/E/P consultant) has already provided the required information to you.

On behalf of Peconic Landing at Southold, Inc. (Owner), our office authorizes you to make copies of the attached application in order to accommodate the number of gas meters required for the community. Specifically, it is our understanding that separate gas meters will be installed for the Community Center, Health Center, Apartment Building and the 111 individual cottage homes. Refer to the attached copy of the site plan which identifies unit numbers for the individual cottage homes.

Please note that cottage unit numbers 46, 53, 97, 101, 107, 109 and 113 will not be constructed as part of the initial phase of construction. While there is no specific schedule for construction of these units at this point, we anticipate that services stubs will be installed for these cottages as part of the initial utility installation.

If you have any comments and/or questions regarding the attached application for services, please do not hesitate to contact our office.

Sincerely,
Retirement Living Services, LLC

Timothy B. Caron, P.E.
Senior Development Analyst

Attachments

- c. Ray Wesnofske - Peconic Landing (w/o site plan)
- Emil Canaan - E&F/Walsh (w/o site plan)
- Tom Hartley - Becker Morgan (w/o site plan)
- Denny Wilhelm - RLS (w/o site plan)

Exhibit 4

Nonresidential Rights and Responsibilities for National Grid Customers in New York State

LONG ISLAND

As a National Grid customer receiving nonresidential service in New York State, you have certain rights and responsibilities. This pamphlet summarizes your rights, as well as your responsibilities and obligations. If anything in this pamphlet is not clear, you may call our Commercial and Industrial Business Team at 1-800-830-8003, Monday-Friday 8 a.m.-5 p.m., to discuss your concerns. Our tariff is available for review at the New York State Public Service Commission (PSC) headquarters in Albany or on our website at www.nationalgridus.com/rates/pricing. You may also visit one of the following customer service offices, which are open from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. If in doubt as to when we are open, please call us at 1-800-830-8003.

BELMORSE	2400 Sunrise Highway
BRENTWOOD	1850 Islip Avenue
BRIDGEHAMPTON	1000 Montauk Highway
CORAM	2045 Route 112
HEWLETT	455 Mill Road
HICKSVILLE	175 E. Old Country Road
MELVILLE	15 Park Drive
PATCHOGUE	460 East Main Street
RIVERHEAD	117 Doctor's Path
ROSLYN HEIGHTS	260 Willis Avenue
WEST BABYLON	470 Park Avenue

These rights and responsibilities are provided for in Part 13, Rules of Subchapter B, Chapter 1, Title 16 of the New York Code of Rules and Regulations. To consult with a Spanish-speaking representative who can explain your rights and responsibilities as a National Grid customer, call 1-800-490-0065.

Applications for Nonresidential Service

You may apply for service by telephone. However, you may be required to complete a written application for service. Your application must be accompanied by copies of your business documents (Partnership or Corporate papers, and a deed or lease). The name on the application must match your business papers.

Following the receipt of a completed application, we will either provide or deny service within 10 days, unless prevented by circumstances beyond our control. If service is denied, we will provide you with a written statement containing our reasons for denial, what you must do to qualify for service and notice of your right to appeal to the PSC. If you qualify for service, you may be required to pay any past due amounts for which you are responsible and comply with all other customer responsibilities as required by our tariff before service is turned on. Additionally, you may be asked to provide us with the name of the individual who controls access to our meters.

Eligibility for Residential Rates

Certain religious organizations, farms, community residences as defined in the Mental Hygiene Law, and pools or halls owned or leased by a not-for-profit corporation that is a veterans' organization, may be eligible for billing at residential rates. Residential rates may be more beneficial depending on factors including the type (gas), amount, and pattern of usage. In order to qualify, National Grid requires evidence of eligibility. For more information about eligibility requirements, call 1-800-830-8003, Monday-Friday, 8 a.m.-5 p.m.

Deposit Policy

When you apply for service, National Grid may require that you pay a security deposit prior to establishing service in your name. Deposits may also be required from existing customers who have either become delinquent or (where reliable evidence exists) are likely to default on payment of billed service charges. Deposits also may be obtained from customers who have filed for reorganization or bankruptcy and from some customers who are back-billed for service provided through tampered equipment.

You can pay a security deposit by cash, check or by an alternative method such as a surety bond or letter of credit. Please note that National Grid pays interest only on security deposits that are paid by cash or check. Such deposits are held at a rate of interest set by the PSC. Interest is either paid to you at the time your deposit is returned or annually applied to your account as a credit for as long as we continue to hold the deposit. Deposits will be returned after three years if you have paid all of your service bills on time and there is no evidence that your credit rating has declined.

Deposit amounts will be reviewed after one year in order to assure that the deposit amount is consistent with the current usage. If not, an additional deposit may be requested or a partial amount refunded. Deposits are reviewed bi-annually or at your request. Security deposit amounts will ordinarily be twice the cost of your average monthly bill. In the case of customers whose usage varies widely, however, the amount can be twice the cost of your average monthly bill during the peak usage season.

For existing customers who have 12 months or more of billing history, the amount of the Security Deposit will be based on billing history. For customers who have less than 12 months of

billing history, the amount of the deposit will be based on either the billing history of the customer, or that of the previous customer, provided there have been no significant changes in usage.

Meter Reading and Billing Policy

We are responsible for supplying gas and/or electric service to our customers in a reliable manner and accurately billing customers for the service they use.

You, as our customer, are responsible for arranging access to our meters and have an obligation to pay your utility bills on time. Here are some important highlights of our billing policies and procedures:

When To Pay - National Grid bills are due and payable when received. A payment is considered overdue 23 days after the bill is mailed to you. You will see a date on your service bill that tells you what date you must pay the bill by to avoid late charges.

Where To Pay - Payments can be made by mail, at payment agencies located throughout our service area, through Online Bill-Pay, or by automatic withdrawal from your bank account. You may also pay your bill or in person at any of our customer service centers. When paying by mail, please return the top portion of the bill along with your check. Please do not send cash. The payment should be mailed to: National Grid, P.O. Box 888, Hicksville, NY 11815-0001. When paying in person, please bring your entire bill. To pay by mail, use the return envelope included with your service bill. For more information, visit www.nationalgridus.com/paymentoptions or call 1-800-864-8729.

Bill Contents - All of our service bills contain the following information:

1. Our Company's name and location of our main office.
2. The service classification (rate) on which we are billing you.
3. Your name, account number and service address.
4. The start and end dates of the billing period.
5. The quantity of service billed.
6. The amount of individual charges and total charges billed.
7. A date by which you must pay to avoid late payment charges.
8. A telephone number to call if you have a question about your bill.

Budget Plan - If you want to spread your energy charges as evenly as possible over a 12-month period, National Grid offers the Budget Plan. This payment plan does not reduce your overall energy expenses, but it may help you manage your budget. This plan is available to all non-residential customers except:

1. Customers who have less than 12 months of billing history at the premises.
2. Seasonal, short-term or temporary customers.
3. Customers who have errors.
4. Interruptible, temperature-controlled or dual-fuel customers.
5. Customers who, for any reason, ceased being billed on a previous levelized payment plan before the end of the plan year, in the past 24 months.
6. Customers whose pattern of consumption is not sufficiently predictable to be estimated on an annual basis with any reasonable degree of certainty.

This voluntary plan is designed to reduce fluctuations in payments caused by seasonal patterns of consumption. If you would like more information or wish to determine whether you are eligible, call 1-800-830-8003, Monday-Friday, 8 a.m.-5 p.m.

Meter Reading/Access to Meters - Normal reading hours are from 8 a.m. to 5 p.m. on business days. If we are unable to get to the meter, we will either estimate your bill or, in some cases, make additional attempts to actually read the meter.

If estimates continue, we are required by law to provide you with notices stating that we are unable to get to the meters and that you have an obligation to arrange access or be subject to additional notices and penalties in the form of charges that can be added to your service bill. Once you have exceeded the maximum number of allowable consecutive estimates, a \$100 continuing charge can be added each time a regularly scheduled reading fails to produce an actual reading. If there is a problem with access to your meter on a regular basis, please contact us to arrange a special appointment or report your reading at 1-866-982-0301 or www.nationalgridus.com.

Estimated Bills - If we are unable to read your meter, you may receive an estimated bill. The method we use to estimate service bills is approved by the PSC and each estimated bill clearly states that service charges billed are based on an estimate. Many estimated bills will also contain the Access to Meter notices mentioned previously.

Backbilling - If we send you a bill for charges not previously billed, the bill will contain an explanation of our reasons for the backbilling. Additionally, customers receiving backbills for a period of time exceeding one month have the right to request a billing statement showing how the charges were calculated and will be

offered the opportunity to pay over a period of time by entering into a Deferred Payment Agreement.

Deferred Payment Agreements

Nonresidential customers experiencing financial difficulty may qualify for arrangements to pay past due bills over a specified period of time. If you are eligible for this type of agreement, we have the right to a down payment. By law, if we make a field visit to shut off service, this down payment may be up to 60 percent of your outstanding balance or four times your average monthly usage, whichever is greater. If you contact us prior to a scheduled field visit, the down payment need not exceed 30 percent of the outstanding balance or twice your average monthly usage, whichever is greater. If you are eligible, and enter into a Deferred Payment Agreement with us, you will be required to pay the following:

1. The down payment required.
2. All future current bills on time.
3. The monthly installment amounts on time.

You also may be required to pay:

1. Late payment charges on the remaining past due balance.
2. A security deposit that can be paid in up to three installments, with 60 percent down and two monthly payments of the balance.

The best way to determine if you are eligible for this type of arrangement is to contact us by phone or by visiting any of our Customer Contact Centers.

If you are backbilled for an amount in excess of \$100, you may request to pay in installments by entering into a Deferred Payment Agreement. Agreements on backbilled amounts require payment of current bills on time and a monthly installment amount on the backbill.

Inspection and Examination of Meters and Other Utility Apparatus

Right to Inspect - National Grid personnel, or agents acting on our behalf, have the right to inspect meters and other equipment at all reasonable times, provided they can produce a photo identification badge that confirms they are authorized to do so. A customer who prevents or hinders such an inspection may be billed a \$100 penalty for each such offense.

Duty to Inspect - We have a duty to perform a field inspection of our equipment when we have received a reasonable request from a customer, a report of possible metering problems or a directive from the PSC. It is our obligation to provide such an inspection within 60 days of receipt of the request, unless circumstances beyond our control prevent completion of the inspection.

Late Payment and Other Charges

We may impose a continuing late payment charge of 1.5 percent per month on the unpaid balance of past service bills, any unpaid late payment charges applied to previous bills, security deposits, amounts previously unbilled where service was provided through tampered equipment or the balance due under a Deferred Payment Agreement.

We may also impose a reasonable charge for other lawful purposes, such as handling a dishonored check, reestablishment of service, customer costs or customer failure to provide access to meters and other Company equipment.

Final Termination Notice, Service Turn Off and Turn On Procedures

If you fail to pay past due bills, we may turn off your service after we have given the required notice. Some nonresidential customers, however, qualify for Home Energy Fair Practices Act (HEFFPA) special protections. To find out if you qualify for these protections, please contact us.

Final Termination Notice - A Final Termination Notice may be sent if your bill is not paid and 23 days have elapsed since the date it was sent. If a Final Termination Notice is personally served on you, service may be shut off in five days; if the Final Termination Notice is mailed, service may be shut off in eight days from the mailing date. The notice will tell you the amount you may be shut off for, the earliest date service may be shut off, how you can contact us to discuss payment of the bill and what procedures (both National Grid and PSC) are available should you have a complaint or feel there may be a problem with your bill.

Termination of Service - We are allowed to shut off service for nonpayment between 8 a.m. and 6 p.m. Monday through Friday. We cannot shut off service on Saturday or Sunday, a public holiday as defined in the General Construction Law of the State or on any day that either our offices or the PSC offices are closed. At the time service is to be shut off, you have the right to pay the Company field representative to avoid disconnection. If you have paid us with a dishonored check in the last 24 months, however, we have the right to accept only a certified check, money order or cash as payment. If service is to be shut off after 3 p.m. on a day preceding a day when termination of service is prohibited, our field representative will contact you and be prepared to accept payments (including personal checks) to avoid termination of service.

Interruption of Service Without Advance Notice - We can turn off service without prior notice in the following circumstances:

1. When an emergency threatens the safety of persons, areas or our equipment.
2. When there is a need to repair, change or improve our equipment.
3. When there is a governmental order directing us to do so.

National Grid will, however, attempt to notify our customers (when reasonably feasible) prior to such interruptions.

Restoration of Service - If your service is shut off for nonpayment of bills, failure to provide access to our meters or a violation of our tariff, we will restore service within 24 hours after you have paid the bill, entered into a Deferred Payment Agreement, made satisfactory arrangements to grant us access or corrected the conditions that constitute the tariff violation. If we are unable to restore service due to circumstances beyond our control, we will restore service within 24 hours after such circumstances cease to exist.

Important Information for Landlords

By law, tenants are required to pay only for the natural gas they use. Sometimes a tenant's electric or natural gas meter also registers natural gas used outside the tenant's dwelling. This is called a "shared meter" condition. A tenant that is billed for a shared condition must be reimbursed by law and/or, under certain conditions, with our approval, a tenant may enter into a mutually acceptable agreement with their landlord to address the situation.

To determine if a shared meter condition might exist, we will need access to the apartment, the meters and any common areas of the building. National Grid is required by law to provide written notification of a pending investigation and the resulting determination to all parties involved. Failure by the landlord to cooperate with our request to investigate may still result in our determination of a "shared meter" condition. If the landlord fails to take any action within 120 days of a "shared meter" determination, the law requires that National Grid establish an account in the landlord's name for all future service measured on the shared meter until they meet compliance requirements. Under certain circumstances, the landlord may be billed for other charges, where applicable, regardless if the situation is corrected or not.

More information about shared metering can be obtained at www.nationalgridus.com/sharedmeter or by calling 1-800-930-5003.

Complaint Handling Procedures

Contact National Grid as soon as possible if you have any complaints, questions or problems about your service. You are entitled to a prompt answer and National Grid representatives are available to help you by phone 24 hours a day. Call our Customer Service Contact Center at 1-800-930-5003. Emergency service is available 24 hours a day, every day. In a life-threatening gas or electric emergency, please call 1-800-480-0045.

Our customer service representatives will do their best to handle your inquiry promptly and considerately. If, however, you are not satisfied by our representative's response or determination, please request that your inquiry or complaint be reviewed by a supervisor.

If National Grid's determination does not satisfy your inquiry or complaint, you can write to the New York State Department of Public Service, Consumer Services Division, at Three Empire State Plaza, Albany, NY, 12223, or call the PSC helpline at 1-800-342-3377. The helpline is staffed from 8:30 a.m. to 4 p.m. on business days. PSC consumer representatives will investigate your complaint and issue a determination. The PSC also has a special emergency hotline for residential customers and nonresidential customers with service provided to residential dwelling units. The hotline number is 1-800-342-3355 and is staffed from 7:30 a.m. - 7:30 p.m. on business days.

While your complaint is being considered by the PSC, we cannot shut off your service for failure to pay an amount in dispute or for any other reason that is the subject of the complaint. We do have the right, however, to terminate service for nonpayment of billed amounts not in dispute or for other valid reasons not at issue in the complaint.

Commercial & Industrial Business Team
300 Erie Boulevard West
Syracuse, NY 13202

Phone: 1-800-664-6729
Monday-Friday, 8 a.m.-5 p.m.
www.nationalgridus.com

This is an important notice. Please have it translated.

Este é um aviso importante. Querê's mandê-lo traduzido.
Este es un aviso importante. Sírvase mandarlo traducido.

Arch. Important. Veuillez traduire immédiatement.

Questo è un'informazione importante.
Upraga je važna.

Биле ЛА МОТ БАН ТРОНА-ОДЕР ИВ ТРЕПЕ
КРА НАС ЛУПНО ОФУ ДИКА ЛУ ТРЕПЕ СЛО БИ

Этот очень важный документ.
Позвоните, пожалуйста, чтобы
вам его перевели.

Questo è un'informazione importante.
Upraga je važna.

Exhibit 5

Your Rights and Responsibilities as a KeySpan Energy Delivery Commercial Customer

This pamphlet summarizes your rights and responsibilities as a KeySpan Energy Delivery commercial customer on Long Island and gives you useful information about our services and obligations. Please read this booklet and save it for future reference. If you have questions that are not answered here, our customer representatives are available by calling 1 800 930-5003.

In addition, a copy of our tariff and a list of all rates are available by calling our customer representatives or visiting a KeySpan Energy Delivery Customer Service Center. The addresses of our offices are listed on page 2.

Servicio Bilingue

Si desea consultarle a un representante de habla hispana, para que le explique cuáles son sus derechos y responsabilidades como cliente de KeySpan Energy Delivery, llame al 1 800 930-5063.

Bilingual Service

To consult with a Spanish-speaking representative who can explain your rights and responsibilities as a KeySpan Energy Delivery customer, call 1 800 930-5003.

KEYSPAN
Energy Delivery
www.keyspanenergy.com

2004

KEYSPAN ENERGY DELIVERY TELEPHONE NUMBERS

Our customer representatives are available, by telephone, at the following numbers:

Emergency Gas Safety Service1 800 490-0045
Billing/General Inquiries1 800 930-5003
(outside toll-free area)(631) 755-6200
Automated Service1 800 930-5003

CUSTOMER SERVICE CENTERS

The following customer service centers are open from 8:30 a.m. to 5:00 p.m., Monday through Friday, **excluding holidays** (if in doubt as to when we are open, please call us at 1 800 930-5003).

BELLMORE

2400 Sunrise Highway
Bellmore, NY 11710

BRENTWOOD

1650 Islip Avenue
Brentwood, NY 11717

BRIDGEHAMPTON

Montauk Highway
Bridgehampton, NY 11932

CORAM

2045 Route 112
Coram, NY 11727

HEWLETT

455 Mill Road
Hewlett, NY 11557

HICKSVILLE

175 East Old Country Road
Hicksville, NY 11801

MELVILLE

15 Park Drive
Melville, NY 11747

PATCHOGUE

460 East Main Street
Patchogue, NY 11772

RIVERHEAD

117 Doctor's Path
Riverhead, NY 11901

ROSLYN HEIGHTS

250 Willis Avenue
Roslyn Heights, NY 11577

WEST BABYLON/ LINDENHURST

479 Park Avenue
West Babylon, NY 11704

ANY QUESTIONS OR PROBLEMS?

Please contact us. You may call, write or visit any of the customer service centers listed in this pamphlet. Our representatives are ready to provide prompt, courteous service. If you did not receive the service you expected, please ask to speak with a supervisor. If you still believe your problem has not been resolved, you should ask to speak with a manager who will review your request. We are committed to seeing that any issues are resolved to your satisfaction.

You can also write us at:

KeySpan Energy Delivery
P.O. Box 9083
Melville, NY 11747-9083

If, after speaking with a manager, you are still not satisfied, you can write to:

New York State Public Service Commission (PSC)
Consumer Services Division
1 Penn Plaza
New York, NY 10119

The PSC's staff is available to assist you. You can call the PSC, toll-free, at 1 800 342-3377, from 8:00 a.m. to 5:00 p.m., Monday through Friday. After hours you can call 1 800 342-3355.

APPLYING FOR SERVICE

A service application must be completed for all commercial accounts; they are available in every customer service center.

To insure that you are assigned an appropriate service classification (rate), the form contains questions concerning the type of business, size and type of equipment in use and estimated gas consumption.

We will make every effort to provide service to a new customer no later than 10 days after we receive a completed application for service.

There are times when applicants are denied service. If this occurs, we will send a written notice stating the reason service was denied and the corrective action that the applicant must take. In the event that service is denied, an applicant has the right to an investigation and review by the PSC.

DEPOSITS

A security deposit may be required from new commercial customers. It may also be required from existing customers who are in payment arrears or if reliable information from an accepted financial reporting service indicates that it is likely a customer may default in the future.

We will not require a deposit greater than your cost of energy for your highest two month period.

Deposit requirements are reviewed initially after one year and every two years thereafter. Interest is paid on all deposits and is calculated and applied to your account annually. The rate of interest is determined by the PSC.

We will return your deposit or portion thereof, plus applicable interest, under certain conditions. Please call 1 800 930-5003 for further information on deposit returns.

Surety bonds or irrevocable bank letters of credit may be accepted as an alternative to a deposit.

BILLING

All bills are due and payable on the date received. Current charges are considered late 23 days after the bill is mailed. Overdue charges, plus any unpaid balance from previous bills, are subject to a Late Payment Charge of 1 1/2 percent per month.

Bills may be paid by mail, online at www.keyspanenergy.com or in person at any of our customer service centers. When paying by mail, please return the top portion of the bill along with your check. Please do not send cash. Mail the payment to KaySpan Energy Delivery, P.O. Box 888, Hicksville, NY 11815-0001. When paying in person, please bring your entire bill.

If circumstances prevent us from rendering a timely or accurate bill, we may backbill your account. Every backbill shall sufficiently explain the reasons for the underbilling. For further information on backbilling, call 1 800 930-5003.

We offer a Balanced Billing payment plan based on your previous year's usage that spreads out your energy costs over the year. Your billing amount may be adjusted during the year to compensate for a change — up or down — in energy use from the previous year. This program does not reduce your energy costs, but helps you budget your expenses by avoiding fluctuating bills. Call 1 800 930-5003 if you are interested.

Based on eligibility requirements, you may be entitled to a deferred payment agreement. The agreement may consist of a down payment of 30 percent of the arrears or two times the average monthly billing amount, whichever is greater. The agreement may also include any amounts due after the issuance of the Final Termination Notice which are in arrears at the time the agreement is made. The remaining balance is to be paid in installments not to exceed the cost of the average monthly bill or one-sixth (1/6) of the balance, whichever is greater. For specific information on eligibility requirements and agreement terms, call us at 1 800 930-5003 or contact any of our customer service centers.

METERS

We will make every effort to obtain an actual meter reading of your energy use and avoid sending you an estimated bill. You can assist us by providing access to your meter or by making an appointment for a special reading. If you do not control access to your meter, please supply us with the name and address of the person who does.

The PSC requires us to begin a no-access procedure if two consecutive bills are estimated because we have not been provided with access to your meter. This procedure specifies that you, or the person controlling access to your meter, will be subject to an additional billing charge until such time as access is provided.

Charges based on estimated meter readings may be revised up or down when an actual reading is obtained. We can avoid this revision of energy charges by having access to the meter.

In addition, we are required to inspect, at various times, meters, pipes, fittings and other equipment that supplies and regulates gas, for which access to your premises is also necessary.

SHARED METERS

New York State's "shared meter" law affects owners and tenants of residential rental property. A shared meter condition exists when a tenant pays for gas service outside the tenant's dwelling. This includes any equipment located outside the tenant's dwelling, but not under the tenant's exclusive use and control.

With certain exceptions, a tenant is only required to pay for utility service used in the tenant's dwelling. If the tenant is paying for service outside the tenant's dwelling, the owner must correct the condition or establish a special account with KeySpan Energy Delivery for both future energy use and for past use outside a tenant's dwelling, up to six years.

As of December 1, 1996, an owner who has not voluntarily eliminated a shared meter condition or asked KeySpan Energy Delivery to investigate, will be responsible for a one-time penalty of 12 months estimated bills in addition to any other charges the owner is required to pay.

RATES FOR RELIGIOUS ESTABLISHMENTS, NOT-FOR-PROFIT VETERANS' ORGANIZATIONS, AND QUALIFIED COMMUNITY RESIDENCES

KeySpan Energy Delivery allows religious establishments, not-for-profit veterans' organizations, and qualified community residences more choices in selecting an appropriate and cost-effective rate. Please call 1 800 930-5003 for further information.

NON-PAYMENT

If you fail to pay your bill, you may receive a reminder notice. If your account remains unpaid, you will receive a Final Termination Notice. Once you receive a Final Termination Notice, you have 15 days to pay the bill or enter into a payment agreement (based on eligibility). If you think the bill is incorrect, call us immediately. No action will be taken while your account is being reviewed.

The Final Termination Notice tells you the overdue amount and the date when your service may be turned off if your bill remains unpaid or if you fail to make a payment agreement.

We will not turn off your service prior to the termination date, on Saturdays, Sundays, holidays, during evening hours or when KeySpan Energy Delivery customer offices are closed.

When KeySpan Energy Delivery reconnects a customer's gas service that has been terminated for nonpayment of bills, a Reconnection Charge will be billed to the customer after the reconnection of service. A Reconnection Charge will also be billed when a customer requests termination of service and then reapplies for service at the same premises within a twelve (12) month period.

If your service is turned off, we will turn it back on within 24 hours provided that:

- you have signed a deferred payment agreement;
- you have made full payment of all overdue charges; or
- the PSC orders that your service be turned on.

SPECIAL SERVICES AND PROTECTIONS

The following special services are available and may be of interest to you:

- A special number for the hearing- and speech-impaired who have TTY equipment: (631) 755-6660.

If service is used primarily for residential purposes, you may be entitled to additional protection under New York State's Home Energy Fair Practices Act (HEFPA). To qualify for this extra protection:

- The account must be in the name of an individual; and
- The individual must live on the premises.

If you meet these requirements, please call us at 1 800 930-5003 or contact one of our customer service centers.

Your Rights and Responsibilities as a KeySpan Energy Delivery Commercial Customer

This pamphlet summarizes your rights and responsibilities as a KeySpan Energy Delivery commercial customer on Long Island and gives you useful information about our services and obligations. Please read this booklet and save it for future reference. If you have questions that are not answered here, our customer representatives are available 24-hours a day, seven days a week by calling 1 800 930-5003.

In addition, a copy of our tariff and a list of all rates are available by calling our customer representatives or visiting a KeySpan Energy Delivery Customer Service Center. The addresses of our offices are listed on page 2.

Servicio Bilingue

Si desea consultarle a un representante de habla hispana, para que le explique cuáles son sus derechos y responsabilidades como cliente de KeySpan Energy Delivery, llame al 1 800 490-0085.

Bilingual Service

To consult with a Spanish-speaking representative who can explain your rights and responsibilities as a KeySpan Energy Delivery customer, call 1 800 490-0085.

KEYSPAN
Energy Delivery

www.keyspanenergy.com

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KEYSPAN ENERGY DELIVERY TELEPHONE NUMBERS

Our customer representatives are available, by telephone, 24-hours a day, seven days a week at the following numbers:

- Emergency Gas Safety Service1 800 490-0045
- Billing/General Inquiries1 800 930-5003
- (outside toll-free area)(631) 755-6200
- Automated Service1 800 930-5003
- En Español1 800 490-0095

CUSTOMER SERVICE CENTERS

The following customer service centers are open from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding holidays (if in doubt as to when we are open, please call us at 1 800 930-5003).

- | | |
|--|---|
| BELLMORE
2400 Sunrise Highway
Bellmore, NY 11710 | MELVILLE
1800 Old Wait Whitman
Road
Melville, NY 11747 |
| BRENTWOOD
1650 Islip Avenue
Brentwood, NY 11717 | PATCHOGUE
400 East Main Street
Patchogue, NY 11772 |
| BRIDGEHAMPTON
Montauk Highway
Bridgehampton, NY 11932 | RIVERHEAD
117 Doctor's Path
Riverhead, NY 11901 |
| CORAM
2045 Route 112
Coram, NY 11727 | ROSLYN HEIGHTS
250 Willis Avenue
Roslyn Heights, NY 11577 |
| HEWLETT
455 Mill Road
Hewlett, NY 11557 | WEST BABYLON/
LINDENHURST
479 Park Avenue
West Babylon, NY 11704 |
| HICKSVILLE
175 East Old Country Road
Hicksville, NY 11801 | |

ANY QUESTIONS OR PROBLEMS?

Please contact us. You may call, write or visit any of the customer service centers listed in this pamphlet. Our representatives are ready to provide prompt, courteous services. If you did not receive the service you expected, please ask to speak with a supervisor. If you still believe your problem has not been resolved, you should ask to speak with a manager who will review your request. We are committed to seeing that any issues are resolved to your satisfaction.

You can also write us at:

KeySpan Energy Delivery
P.O. Box 9083
Melville, NY 11747-9083

If, after speaking with a manager, you are still not satisfied, you can write to:

New York State Public Service Commission (PSC)
Consumer Services Division
1 Penn Plaza
New York, NY 10119

The PSC's staff is available to assist you. You can call the PSC, toll-free, at 1 800 342-3377, from 8:00 a.m. to 5:00 p.m., Monday through Friday. After hours you can call 1 800 342-3355.

APPLYING FOR SERVICE

A service application must be completed for all commercial accounts; they are available in every customer service center.

To insure that you are assigned an appropriate service classification (rate), the form contains questions concerning the type of business, size and type of equipment in use and estimated gas consumption.

We will make every effort to provide service to a new customer no later than 10 days after we receive a completed application for service.

There are times when applicants are denied service. If this occurs, we will send a written notice stating the reason service was denied and the corrective action that the applicant must take. In the event that service is denied, an applicant has the right to an investigation and review by the PSC.

DEPOSITS

A security deposit may be required from new commercial customers. It may also be required from existing customers who are in payment arrears or if reliable information from an accepted financial reporting service indicates that it is likely a customer may default in the future.

We will not require a deposit greater than your cost of energy for your highest two month period.

Deposit requirements are reviewed initially after one year and every two years thereafter. Interest is paid on all deposits and is calculated and applied to your account annually. The rate of interest is determined by the PSC.

We will return your deposit or portion thereof, plus applicable interest, under certain conditions. Please call 1 800 930-5903 for further information on deposit returns.

Surety bonds or irrevocable bank letters of credit may be accepted as an alternative to a deposit.

BILLING

All bills are due and payable on the date received. Current charges are considered late 23 days after the bill is mailed. Overdue charges, plus any unpaid balance from previous bills, are subject to a Late Payment Charge of 1 1/2 percent per month.

Bills may be paid by mail or in person at any of our customer service centers. When paying by mail, please return the top portion of the bill along with your check. Please do not send cash. Mail the payment to KeySpan Energy Delivery, P.O. Box 888, Hicksville, NY 11815-0001. When paying in person, please bring your entire bill.

If circumstances prevent us from rendering a timely or accurate bill, we may backbill your account. Every backbill shall sufficiently explain the reasons for the underbilling. For further information on backbilling, call 1 800 930-5903.

We offer a Balanced Billing payment plan based on your previous year's usage that spreads out your energy costs over the year. Your billing amount may be adjusted during the year to compensate for a change — up or down — in energy use from the previous year. This program does not reduce your energy costs, but helps you budget your expenses by avoiding fluctuating bills. Call 1 800 930-5903 if you are interested.

Based on eligibility requirements, you may be notified to a deferred payment agreement. The agreement may consist of a down payment of 30 percent of the arrears or two times the average monthly billing amount, whichever is greater. The agreement may also include any amounts due after the issuance of the Final Termination Notice which are in arrears at the time the agreement is made. The remaining balance is to be paid in installments not to exceed the cost of the average monthly bill or one-sixth (1/6) of the balance, whichever is greater. For specific information on eligibility requirements and agreement terms, call us at 1 800 930-5903 or contact any of our customer service centers.

METERS

We will make every effort to obtain an actual meter reading of your energy use and avoid sending you an estimated bill. You can assist us by providing access to your meter or by making an appointment for a special reading. If you do not control access to your meter, please supply us with the name and address of the person who does.

The PSC requires us to begin a no-access procedure if two consecutive bills are estimated because we have not been provided with access to your meter. This procedure specifies that you, or the person controlling access to your meter, will be subject to an additional billing charge until such time as access is provided.

Charges based on estimated meter readings may be revised up or down when an actual reading is obtained. We can avoid this revision of energy charges by having access to the meter.

In addition, we are required to inspect, at various times, meters, pipes, fittings and other equipment that supplies and regulates gas, for which access to your premises is also necessary.

SHARED METERS

New York State's "shared meter" law affects owners and tenants of residential rental property. A shared meter condition exists when a tenant pays for gas service outside the tenant's dwelling. This includes any equipment located outside the tenant's dwelling, but not under the tenant's exclusive use and control.

With certain exceptions, a tenant is only required to pay for utility service used in the tenant's dwelling. If the tenant is paying for service outside the tenant's dwelling, the owner must correct the condition or establish a special account with KeySpan Energy Delivery for both future energy use and for past use outside a tenant's dwelling, up to six years.

As of December 1, 1996, an owner who has not voluntarily eliminated a shared meter condition or asked KeySpan Energy Delivery to investigate, will be responsible for a one-time penalty of 12 months estimated bills in addition to any other charges the owner is required to pay.

RATES FOR RELIGIOUS ESTABLISHMENTS, NOT-FOR-PROFIT VETERANS' ORGANIZATIONS, AND QUALIFIED COMMUNITY RESIDENCES

KeySpan Energy Delivery allows religious establishments, not-for-profit veterans' organizations, and qualified community residences more choices in selecting an appropriate and cost-effective rate. Please call 1 800 930-5003 for further information.

NON-PAYMENT

If you fail to pay your bill, you may receive a reminder notice. If your account remains unpaid, you will receive a Final Termination Notice. Once you receive a Final Termination Notice, you have 15 days to pay the bill or enter into a payment agreement (based on eligibility). If you think the bill is incorrect, call us immediately. No action will be taken while your account is being reviewed.

The Final Termination Notice tells you the overdue amount and the date when your service may be turned off if your bill remains unpaid or if you fail to make a payment agreement.

We will not turn off your service prior to the termination date, on Saturdays, Sundays, holidays, during evening hours or when KeySpan Energy Delivery customer offices are closed.

When KeySpan Energy Delivery reconnects a customer's gas service that has been terminated for nonpayment of bills, a Reconnection Charge will be billed to the customer after the reconnection of service. A Reconnection Charge will also be billed when a customer requests termination of service and then reappplies for service at the same premises within a twelve (12) month period.

If your service is turned off, we will turn it back on within 24 hours provided that:

- you have signed a deferred payment agreement;
- you have made full payment of all overdue charges; or
- the PSC orders that your service be turned on.

SPECIAL SERVICES AND PROTECTIONS

The following special services are available and may be of interest to you:

- 24-hour, seven day service to answer billing questions at 1 800-930-5003.
 - A special number for the hearing- and speech-impaired who have TTY equipment: (631) 755-6650.
- If service is used primarily for residential purposes, you may be entitled to additional protection under New York State's Home Energy Fair Practices Act (HEFPA). To qualify for this extra protection:
- The account must be in the name of an individual; and
 - The individual must live on the premises.

If you meet these requirements, please call us at 1 800 930-5003 or contact one of our customer service centers.

IMPORTANT RULES FOR CUSTOMERS WHO PURCHASE GAS SUPPLY FROM AN ENERGY SERVICE COMPANY (ESCO)

The Public Service Commission has established rules regarding the distribution of partial payments made towards gas bills with combined KeySpan Energy Delivery and ESCO charges. A payment that does not cover the full amount of a bill will be equitably distributed between the companies based on how much is due to each company. Priority is given to any amount due that, if unpaid, would result in a loss of service from your ESCO and/or KeySpan Energy Delivery.

Your Rights and Responsibilities as a National Grid Commercial Customer

This pamphlet summarizes your rights and responsibilities as a National Grid commercial customer on Long Island and gives you useful information about our services and obligations. Please read this booklet and save it for future reference. If you have questions that are not answered here, our customer representatives are available from 8 a.m. to 8 p.m., Monday through Friday by calling 1 800 930-5003.

In addition, a copy of our tariff and a list of all rates are available by calling our customer representatives or visiting a National Grid Customer Service Center. The addresses of our offices are listed on page 2.

Servicio Bilingue

Si desea consultarle a un representante de habla hispana, para que le explique cuáles son sus derechos y responsabilidades como cliente de National Grid, llame al 1 800 490-0085.

Bilingual Service

To consult with a Spanish-speaking representative who can explain your rights and responsibilities as a National Grid customer, call 1 800 490-0085.

nationalgrid

www.nationalgridus.com

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NATIONAL GRID TELEPHONE NUMBERS

Our customer representatives are available, by telephone, from 8 a.m. to 8 p.m., Monday through Friday at the following numbers:

Emergency Gas Safety Service (24/7) ... 1 800 490-0045
Billing/General Inquiries 1 800 930-5003
(outside toll-free area) (631) 755-6200
Automated Service 1 800 930-5003
En Español 1 800 490-0086

You may contact us by e-mail at onlineservices@us.ngrid.com.

CUSTOMER SERVICE CENTERS

The following customer service centers are open from 8:30 a.m. to 5:00 p.m., Monday through Friday, **excluding holidays** (if in doubt as to when we are open, please call us at 1 800 930-5003).

BELLMORE

2400 Sunrise Highway
Bellmore, NY 11710

BRENTWOOD

1650 Islip Avenue
Brentwood, NY 11717

BRIDGEHAMPTON

Montauk Highway
Bridgehampton, NY 11932

CORAM

2045 Route 112
Coram, NY 11727

HEWLETT

455 Mill Road
Hewlett, NY 11557

HICKSVILLE

175 East Old Country Road
Hicksville, NY 11801

MELVILLE

15 Park Drive
Melville, NY 11747

PATCHOGUE

460 East Main Street
Patchogue, NY 11772

RIVERHEAD

117 Doctor's Path
Riverhead, NY 11901

ROSLYN HEIGHTS

250 Willis Avenue
Roslyn Heights, NY 11577

WEST BABYLON/ LINDENHURST

479 Park Avenue
West Babylon, NY 11704

ANY QUESTIONS OR PROBLEMS?

Please contact us. You may call, write or visit any of the customer service centers listed in this pamphlet. Our representatives are ready to provide prompt, courteous service. If you did not receive the service you expected, please ask to speak with a supervisor. If you still believe your problem has not been resolved, you should ask to speak with a manager who will review your request. We are committed to seeing that any issues are resolved to your satisfaction.

You can also write us at:

National Grid
P.O. Box 9083
Melville, NY 11747-9083

If, after speaking with a manager, you are still not satisfied, you can write to:

New York State Public Service Commission (PSC)
Consumer Services Division
90 Church Street
New York, NY 10007

The PSC's staff is available to assist you. You can call the PSC, toll-free, at 1 800 342-3377, from 8:00 a.m. to 5:00 p.m., Monday through Friday. After hours you can call 1 800 342-3355.

APPLYING FOR SERVICE

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Bills may be paid by mail, online at www.nationalgridus.com, or in person at any of our customer service centers. When paying by mail, please return the top portion of the bill along with your check. Please do not send cash. Mail the payment to National Grid, P.O. Box 888, Hicksville, NY 11815-0001. When paying in person, please bring your entire bill.

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With certain exceptions, a tenant is only required to pay for utility service used in the tenant's dwelling. If the tenant is paying for service outside the tenant's dwelling, the owner must correct the condition or establish a special account with National Grid for both future energy use and for past use outside a tenant's dwelling, up to six years.

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The Final Disconnection Notice tells you the overdue amount and the date when your service may be turned off if your bill remains unpaid or if you fail to make a payment agreement.

We will not turn off your service prior to the disconnection date, on Saturdays, Sundays, holidays, during evening hours or when National Grid customer offices are closed.

When National Grid reconnects a customer's gas service that has been disconnected for nonpayment of bills, a Reconnection Charge will be billed to the customer after the reconnection of service. A Reconnection Charge will also be billed when a customer requests disconnection of service and then reapplies for service at the same premises within a twelve (12) month period.

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- you have signed a deferred payment agreement;
- you have made full payment of all overdue charges; or
- the PSC orders that your service be turned on.

SPECIAL SERVICES AND PROTECTIONS

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- The account must be in the name of an individual; and
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If you meet these requirements, please call us at 1 800 930-5003 or contact one of our customer service centers.

IMPORTANT RULES FOR CUSTOMERS WHO PURCHASE GAS SUPPLY FROM AN ENERGY SERVICE COMPANY (ESCO)

The Public Service Commission has established rules regarding the distribution of partial payments made towards gas bills with combined National Grid and ESCO charges. A payment that does not cover the full amount of a bill will be equitably distributed between the companies based on how much is due to each company. Priority is given to any amount due that, if unpaid, would result in a loss of service from your ESCO and/or National Grid.