

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITY

PART 280

PROCEDURES FOR GAS, ELECTRIC, WATER AND SANITARY SEWER
UTILITIES GOVERNING ELIGIBILITY FOR SERVICE, DEPOSITS,
PAYMENT PRACTICES AND DISCONTINUANCE OF SERVICE

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AUTHORITY: Implementing the Small Business Utility Deposit Relief Act [220 ILCS 35] and Sections 8-101, 8-206, and 8-207 of the Public Utilities Act [220 ILCS 5/8-101, 8-206, and 8-207], and authorized by Section 8 of the Small Business Utility Deposit Relief Act [220 ILCS

35/8] and Sections 8-101, 8-207, and 10-101 of the Public Utilities Act [220 ILCS 5/8-101, 8-207, and 10-101].

SOURCE: Rule repealed, new rule adopted at 3 Ill. Reg. 1, p. 102, effective January 6, 1979; emergency amendment at 3 Ill. Reg. 46, p. 65, effective November 16, 1979, for a maximum of 150 days; amended at 4 Ill. Reg. 46, p. 1274, effective November 10, 1980; amended at 6 Ill. Reg. 10917, effective September 7, 1982; amended at 6 Ill. Reg. 13723, effective November 8, 1982; amended at 7 Ill. Reg. 9285, effective July 22, 1983; codified at 7 Ill. Reg. 13218; emergency amendment at 7 Ill. Reg. 14543, effective October 18, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 13221, effective November 1, 1983; emergency amendment at 7 Ill. Reg. 16667, effective December 1, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 3664, effective March 15, 1984; emergency amendment at 8 Ill. Reg. 17924, effective September 13, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21222, effective October 15, 1984; amended at 9 Ill. Reg. 2268, effective February 8, 1985; amended at 16 Ill. Reg. 11023, effective July 1, 1992; amended at 17 Ill. Reg. 805, effective January 15, 1993; amended at 18 Ill. Reg. 6160, effective May 1, 1994; amended at 18 Ill. Reg. 17974, effective December 15, 1994; emergency amendment at 25 Ill. Reg. 16545, effective December 13, 2001 for a maximum of 150 days; amended at 26 Ill. Reg. 7032, effective May 1, 2002; amended at 27 Ill. Reg. 4527, effective April 01, 2003; emergency amendment at 27 Ill. Reg. 15156 effective September 15, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 2680, effective February 10, 2004.

Section 280.40 Definitions

"Applicant" – a person who applies for residential or non-residential utility service.

"Commercial credit reporting agencies" - businesses that compile and report commercial trade experience and/or financial statement analysis. Examples include Dun & Bradstreet, Equifax, and Experian.

"Commercial credit scoring system" - analytical models utilized by commercial credit reporting agencies that provide a commercial credit score that can be utilized to determine non-residential credit risk levels.

"Commercial debt rating agencies" - businesses that provide debt ratings on commercial publicly traded debt. Examples include Moody's, Standard & Poor's, and Fitches.

"Credit scoring system" has the same meaning set forth in 12 CFR 202.2 as of January 1, 2002, and no later amendments or editions are incorporated.

"Customer" – a person who has agreed with a utility to pay for gas, electric, water or sanitary sewer utility service.

"Financial compilation agencies" - businesses that compile corporate financial data and provide ratio analysis that is compared to industry and market averages. Examples would include Dun & Bradstreet and Hoover's.

"Master-metered apartment building" – a building of three or more rental dwelling units where any utility service is registered by a single meter for all the units.

"Nonresidential Service" – gas, electric, water or sanitary sewer utility service rendered which is not residential service.

"Person" – a natural person, corporation, real estate trust, partnership, association or other legal entity.

"Profitability ratios" - The following are considered to be profitability ratios: return on sales, return on assets and return on common equity.

"Residential Service" – gas, electric, water or sanitary sewer utility service for household purposes furnished to a dwelling of two units or less which is billed under a residential rate; or gas, electric, water or sanitary sewer utility service for household purposes furnished to a dwelling unit or units which is billed under a residential rate and which is registered by a separate meter for each dwelling unit.

"Small business" – any Illinois based business which has 50 or less full-time employees in the State. [220 ILCS 35/2].

"Solvency ratios" - the following ratios are considered to be solvency ratios: quick, current, debt to equity, current liabilities to equity, current liabilities to inventory, fixed assets to inventory, and interest coverage.

"User" – a person who receives gas, electric, water or sanitary sewer utility service.

"Utility Service" – gas, electric, water or sanitary sewer utility service provided to a customer at a specific location.

(Source: Amended at ___ Ill. Reg. _____, effective _____)

Section 280.50 Applicants for Service

- a) If, after a review of its own past service records, a utility finds that an applicant for residential service has failed to pay for past due utility service for the same class of service furnished to him/her at the same or at another address, or if the credit score of the applicant for residential service does not meet or exceed the predetermined minimum credit score selected by the utility using a credit scoring system (see Section 280.40), a utility may refuse to provide service, unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110. A utility that elects to use a credit scoring system shall file a tariff describing its practice of using a credit scoring system. For purposes of this subsection, a utility may refuse to provide service;

- ~~1) if the applicant is liable for a past due bill for utility service pursuant to Section 15 of the Rights of Married Persons Act [750 ILCS 65/15], unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110; or~~
 - 2) if a former customer, who is still liable for payment of a past due bill for the same class of utility service provided at the same premises for which the applicant is seeking service, continues to occupy that premise.
- b) If, after a review of its own past service records, a utility finds that an applicant for non-residential service has failed to pay for past due utility service for the same class of service furnished to him/her at the same or at another address, or if the applicant for non-residential service is unable to establish satisfactory credit references, a utility may refuse to provide service, unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110.
- c) A bill for one class of service (residential or non-residential) shall not be transferred to a bill for the other class of service, nor shall the bill for one form of utility service (such as gas) be transferred to a bill for another form of utility service (such as electric). Service shall not be denied for nonpayment of bills for merchandise or non-utility services.
- d) If a utility takes applications for service by telephone from third parties or users who will not be the customers of the service, and if the utility does not verify the third party or user application with the customer, the utility shall not be entitled to collect from the customer of the service if the customer disclaims any responsibility for requesting the service; provided, however, that users will be responsible for paying for their use.
- e) A utility shall not require a deposit based on a credit scoring system if the applicant for residential service is eligible for the Low Income Home Energy Assistance Program (LIHEAP) or provides proof of identity fraud.
- f) A utility that elects to utilize a credit scoring program for applicants for residential service shall collect the following data and maintain such data for a period of five years following its collection:
 - 1) the number of credit scores requested for applicants;
 - 2) the number of applicants who received passing credit scores;
 - 3) the number of applicants who received failing scores;
 - 4) the number and total amount of deposits obtained from applicants subject to the credit scoring program;

- 5) the number of times a security deposit was waived for low-income applicants and for other applicants, with stated reasons for the waiver;
- 6) the number of disconnections of service for applicants who failed to pay the required deposit; and
- 7) the number of formal or informal complaints alleged by applicants regarding the use of credit scoring or the requirement to pay a deposit based on the credit scoring program.

(Source: Amended at ___ Ill. Reg. _____, effective _____)

Section 280.60 Present Customers

- a) A utility may request a deposit pursuant to Section 280.70 ~~herein~~ from a present residential or present non-residential customer that is not a small business if the customer, during the first twenty-four months that the customer receives utility service from the utility if the customer, during any twelve month period, pays late four times if billed monthly, two consecutive times or three times if billed bi-monthly or two times if billed quarterly or semi-annually, or if the customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering. A utility may request a deposit pursuant to this subsection that is based on a residential customer's payment history occurring prior to the effective date of this amendment only if such payment history occurs during the first twenty-four months that the customer receives utility service from the utility. Utilities may request deposits from all customers that satisfy the provisions of this subsection for any period beginning after the effective date of this amendment.
- b) A utility may request a deposit pursuant to Section 280.70 ~~herein~~ from a present ~~residential~~ customer that is a small business:
 - 1) within the first 24 months that the customer receives utility service if, during any twelve month period, the customer pays late four times if billed monthly, two consecutive times or three times if billed bi-monthly or two times if billed quarterly or semi-annually, or if the after the first 24 months that the customer has received utility service if the customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering; or-
 - 2) subsequent to the first 24 months that the customer receives utility service if, during any twelve month period, the customer pays late six times if billed monthly, two consecutive times or three times if billed bi-monthly or two times if billed quarterly or semi-annually, or if the customer's wires, pipes, meters or other service equipment have been tampered with and the customer benefited from the tampering.

- c) A utility may request a deposit pursuant to Section 280.70 ~~herein~~ from a present non-residential customer if the utility has reasonable grounds, as specified in this subsection, for insecurity regarding the customer's ability to pay for utility service.
- 1) A non-residential customer will be subject to a deposit if that customer's commercial credit score or commercial debt rating, provided by a nationally recognized commercial credit reporting agency or nationally recognized commercial debt rating agency, does not meet or exceed the predetermined minimum commercial credit score or commercial debt rating selected by the utility. A utility that elects to use commercial credit scores and/or commercial debt ratings shall file a tariff pursuant to Section 9-201 of the Public Utilities Act [220 ILCS 5/9-201] describing its practice of using commercial credit scores and/or commercial debt ratings, including, but not limited to, the commercial credit scoring system or debt rating agency selected and the minimum commercial credit score or commercial debt rating selected. ~~after the first twenty-four months that the customer has received utility service if the customer, during any twelve-month period ending after the first twenty-four months of service, pays late six times if billed monthly, three times if billed bi-monthly or two times if billed quarterly or semi-annually, or if the customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering.~~
 - 2) Any non-residential customer who is required to file financial statements with the Securities and Exchange Commission, as required by the Securities Act of 1933 [15 U.S.C. § 77a], will also be subject to a deposit should it fail to file its reports with the Securities and Exchange Commission or should it have solvency and/or profitability ratios that do not meet or exceed either its industry's average ratio or the overall market's average ratio, as determined by either commercial credit reporting agencies, commercial debt rating agencies or financial compilation agencies. A utility that elects to use these agencies and their industry average solvency and/or profitability ratios established by this Part shall file a tariff pursuant to Section 9-201 of the Public Utilities Act describing its practice of using such ratios, including, but not limited to, the ratios to be analyzed and the agency selected.
 - 3) A utility that requests a deposit pursuant to this subsection (c) shall complete a review of the basis for the request within one year after the date of payment of the deposit and annually thereafter until such time as any deposit is refunded. If the review reveals that the basis for the deposit is no longer applicable, the deposit plus interest, as set forth in Section 280.70(e), shall be refunded within 30 days after completion of the review. A utility shall include provisions setting forth its review practice in any tariff filed pursuant to either subsection (c)(1) or (c)(2).

- 4) A utility may not demand a deposit from a small business pursuant to this subsection (c) if the customer was previously assessed a deposit that was refunded in accordance with subsection (c)(3) within the last 60 days.
- d) A utility requesting a deposit for any of the reasons stated in this Section shall make such request within forty-five days after the event giving rise to the request ~~becomes known to the utility takes place~~. In the event the customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering the request for deposit must be made within forty-five days after the utility's discovery of the tampering.
- e) A present customer whose service is discontinued becomes an applicant for service subject to the provisions of Section 280.50 ~~herein~~ for purposes of reconnection of that customer's ~~his/her~~ service.
- f) Present residential customers who are indebted to a utility for past due utility service shall have the opportunity to negotiate a deferred payment agreement pursuant to Section 280.110 ~~herein~~ to retire the debt. Present non-residential customers who are indebted to a utility for past due utility service may have the opportunity to negotiate a deferred payment agreement pursuant to Section 280.110 herein to retire the debt.
- g) For any non-residential customer that is a small business, the deposit amount shall be set in accordance with the provisions of Section 3 of the Small Business Utility Deposit Relief Act [220 ILCS 35/3].

(Source: Amended at __ Ill. Reg. _____, effective _____)

Section 280.70 Deposits

- a) Applicants for Service – Conditions under which a utility may request a deposit from applicants for service are set out in Section 280.50.
- b) Present Customers – Conditions under which a utility may request a deposit from present customers are set out in Section 280.60.
- c) Amount
- 1) Deposits required of applicants for residential service, residential customers, applicants for non-residential service that are not "small businesses" (see Section 280.40), and non-residential customers that are not small businesses, shall be governed by the following:
- A) In the case of gas utilities and electric utilities, no utility shall request a deposit from an applicant for residential service or from a residential customer *in excess of ¹/₆ of the estimated annual charges for service for the applicant or customer computed at the net rate for that class of service.* [220 ILCS 35/3] In the case of gas

utilities and electric utilities, no utility shall request a deposit from an applicant for non-residential service or from a non-residential customer in excess of $\frac{1}{3}$ of the amount of the estimated annual charges for service for the applicant or customer computed at the net rate for that class of service. In the case of water utilities and sanitary sewer utilities, no utility shall request a deposit from an applicant or customer in excess of $\frac{1}{3}$ of the estimated annual charges for service computed at the net rate for that class of service.

B) *A utility may request that a minimum of $\frac{1}{3}$ of the amount of a requested deposit be paid within twelve days after the issue date of the request for deposit. At least two billing periods shall be allowed by gas utilities and electric utilities in which to pay the balance of the deposit. A period of 30 days shall be allowed by water utilities and sanitary sewer utilities in which to pay the balance of the deposit.*

2) Deposits required of small business applicants and customers shall be governed by the following:

A) No utility subject to this Part shall request a deposit from a small business *in excess of $\frac{1}{6}$ of the estimated annual charge for service for that small business computed at the net rate for that class of service.*

B) *A utility may request a minimum amount equal to $\frac{1}{3}$ of a requested deposit to be paid within 12 days after the issue date of a notice requesting such deposit. A utility may require the full payment of the remaining balance of the deposit to be paid by the applicant no sooner than 2 billing periods typically or routinely used by the utility.*

3) For all deposits, *the date by which the entire deposit must be paid must be plainly indicated on the deposit request. The amount of the deposit may be adjusted at the request of the customer, applicant or utility at any time when the character or degree of use of the service materially changes or when it is clearly established that the character or degree of use of the service will materially change in the immediate future.*

d) Refund of Deposits

1) Deposits plus interest shall be automatically refunded after being held for twelve months as follows:

A) Subject to subsection (d)(1)(B), if the twelve months during which the deposit was held are within the first 24 months that a customer has received utility service, the deposit plus interest shall be

refunded only so long as the service has not been interrupted for nonpayment or so long as the customer has not paid late four times if billed monthly, two consecutive times or three times if billed bi-monthly or two times if billed quarterly or semi-annually or so long as the customer's wires, pipes, meters or other service equipment have not been tampered with during the time the deposit was held which resulted in the customer benefiting from enjoying ~~the benefit of~~ the tampering;

B) For any non-residential customer that is a small business, deposits plus interest shall be refunded in accordance with the provisions of Section 3 of the Small Business Utility Deposit Relief Act; if the twelve months during which the deposit was held were subsequent to the first 24 months that a customer has received utility service, the deposit plus interest shall be refunded only so long as the service has not been interrupted for nonpayment or so long as the customer has not paid late six times during the past twelve months if billed monthly, or three times if billed bi-monthly or two times if billed quarterly or semi-annually or so long as the customer's wires, pipes, meters or other service equipment have not been tampered with during the time the deposit was held which resulted in the customer enjoying the benefit of the tampering.

C) If the deposit was assessed based on Section 280.60(c) and if, based on the review conducted in accordance with Section 280.60(c)(3), the customer no longer satisfies the requirements of either Section 280.60(c)(1) or (2) and so long as the customer satisfies the requirements of subsection (d)(1)(A), the utility shall refund the deposits plus interest back to the customer. deposits plus interest need not be refunded until the customer pays any past due bills for utility service.

- 2) Deposits plus interest shall be refunded upon the discontinuance of service for more than 30 days less the amount of unpaid bills, if any, for the service. A transfer of service from one premise to another within the area served by the utility need not be deemed a discontinuance of service by the utility if the character of service remains the same. When a deposit plus interest is applied to the liquidation of unpaid bills, the utility shall provide the customer with a statement (Cancellation Notice) showing the amount of the deposit, the amount of any accrued interest, the amount of the unpaid bills liquidated by the deposit plus interest and the balance remaining due either to the customer or to the utility.
- 3) All deposit refunds shall be by separate check and not by credit to the customer's account except where discontinuance of service is affected.

- 4) At the option of the utility, a deposit plus interest may be refunded, in whole or in part, at any time earlier than the times prescribed in this subsection (d).
- e) Interest on Deposits
 - 1) Interest shall be paid on all deposits held by the utility. The rate of interest will be the same as the rate existing for the average one-year yield on U.S. Treasury securities for the last full week in November. The interest rate will be rounded to the nearest .5%. In December of each year the Commission shall announce the rate of interest that shall be paid on all deposits held during all or part of the subsequent year.
 - 2) At the end of every year of service, if the deposit plus interest is not refunded to the customer, the utility shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and so stating this credit clearly on the customer's next regular bill.
- f) Records of Deposits
 - 1) A utility shall maintain records of deposits together with interest, which collectively will show all transactions pertaining to each deposit. A utility shall provide the applicant or customer with a Certificate of Deposit for any deposit received. The Certificate shall show the customer's name, service address, serial number, type of service, amount of deposit, rate of interest on deposit, date received, utility's name and a statement of the conditions under which the deposit will be refunded to the applicant or customer. Nothing is implied herein to require a utility to accept deposits from third parties on behalf of an applicant or customer.
 - 2) When a deposit is refunded, the utility shall issue a Cancellation Notice carrying the same serial number as the Certificate of Deposit. When refunds are not deliverable, records shall be maintained to show a utility's efforts toward locating the applicant or customer and delivering such deposit.

AGENCY NOTE: As required by 1 Ill. Adm. Code 100.380, statutory language in this Section appears in distinguishing type. However, the Small Business Utility Deposit Relief Act, which is the statute quoted, applies only to deposits requested from "small businesses" as defined in Section 280.40. Therefore, the statutory language in this Section is statutorily mandated as to small businesses only, and not as to other customers or applicants.

(Source: Amended at ___ Ill. Reg. _____, effective _____)

Section 280.130 Discontinuance of Service

- a) Discontinuance

- 1) A utility may discontinue service when any customer fails to do any of the following:
 - A) make a deposit or increase a deposit pursuant to Section 280.70 herein;
 - B) pay a past due bill owed to the utility for the same class of service furnished at the same or at another location. For purposes of this subsection, a utility may discontinue service if the current customer is liable for a past due bill for utility service pursuant to Section 15 of the Rights of Married Persons Act [750 ILCS 65/15], unless the customer, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110;
 - C) comply with an order of the Commission;
 - D) make payment in accordance with the terms of a deferred payment agreement;
 - E) comply with any rules of the utility on file with the Commission for which the utility is authorized by tariff to discontinue service for noncompliance on the part of the customer or user; or
 - F) provide utility representatives with access to the meter after receiving consecutively estimated bills for four billing periods if billed monthly or bi-monthly or two billing periods if billed quarterly or semi-annually and the utility thereafter makes a written request for access.
- 2) The utility ~~may~~ can discontinue service only after it has mailed or delivered by other means a written notice of discontinuance substantially in the form of Appendix A. Any notice required to be delivered or mailed to a customer prior to discontinuance of service shall be delivered or mailed separately from any bill. Service shall not be discontinued until at least five days after delivery or eight days after the mailing of this notice. This notice shall remain effective for a period of forty days.
 - b) In addition, a copy of ~~this said~~ notice shall be mailed to a third party designated by the customer, should the customer make a written request to the utility for ~~such~~ third party notice.
 - e) ~~Said notice shall remain effective for two consecutive twenty day periods, provided that during each such period a call is made at the customer's premises or billing address or telephone contact with the customer is made. If the utility does not discontinue service within the two consecutive twenty day periods, the utility shall not discontinue service until at least five days after delivery or eight days~~

~~after mailing of a new notice of its intention to discontinue service to the customer.~~

- ~~cd)~~ ~~A utility shall attempt to advise the customer that service is being discontinued by directing its employee making the disconnection to contact the customer at the time service is being discontinued.~~ When the utility is unable to discontinue service during a call made at the customer's premise, the utility shall attempt to leave a notice at the premise or billing address informing the customer that an attempt to discontinue service has been made and that the customer's his/her service continues to be subject to discontinuance.
- ~~de)~~ The utility shall not make a practice of delivering more than two consecutive notices of discontinuance for past due bills without engaging in collection activity with the customer.
- ~~ef)~~ A utility shall not discontinue service at the meter subsequent to 2:00 P.M. unless the utility shall be prepared to reconnect the same day at the standard reconnection charge, if any. No utility shall discontinue service on a holiday or weekend day unless prepared to reconnect on that holiday or weekend day.
- ~~fg)~~ Utility service shall not be discontinued and shall be restored if discontinued where a customer has established, renegotiates, or is reinstated onto a deferred payment agreement pursuant to Section 280.110 and has not defaulted on such agreement.
- ~~gh)~~ Utility service shall not be discontinued and shall be restored if discontinued for the reason which is the subject of a dispute or complaint during the pendency of procedures under Section 280.160 and/or Section 280.170 where the customer has complied with such Sections.
- ~~hi)~~ Termination of gas and electric utility service to all residential users, including all tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence is prohibited:
 - 1) on any day when the National Weather Service forecast for the following 24 hours covering the area of the utility in which the residence is located includes a forecast that the temperature will be 32 degrees Fahrenheit or below; or
 - 2) on any day preceding a holiday or a weekend when such a forecast indicated that the temperature will be 32 degrees Fahrenheit or below during the holiday or weekend.
- ~~ij)~~ Notwithstanding any of the foregoing provisions, discontinuance of service to residential customers is prohibited for up to sixty days when discontinuance of service will aggravate an existing serious illness of any person who is a

permanent resident of the premise where service is rendered if the customer complies with the following requirements regarding such illness:

- 1) The illness must be certified to the utility by a registered physician or local board of health. The certification shall be in writing and shall include the name of the ill person, a statement that he/she is a resident of the premises in question, the name, business address, and telephone number of the certifying party, the nature of the illness, and the period of time during which termination will aggravate the illness;
- 2) Initial certification by the certifying party may be by telephone if written certification is forwarded to the utility within five days;
- 3) Initial certification shall prohibit discontinuance of service for thirty days. Certification may be renewed by the customer for an additional thirty days by providing another certificate to the utility. Failure to so renew the certificate shall entitle the utility to initiate discontinuance procedures;
- 4) The customer must enter into an agreement for the retirement of the unpaid balance of the account within the first thirty days and keep the current account paid during the period that the unpaid balance is to be retired. Notice of discontinuance of service sent to residential customers must include a notice substantially in the form of Appendix B herein; and
- 5) In the event service is terminated within fourteen days prior to certification of illness by or for a qualifying resident, service shall be restored to that residence if a proper certification is thereafter made in accordance with the foregoing provisions.

j) Nothing in this Section or this Part shall be construed to prevent discontinuance of service for reasons of safety, health, or cooperation with civil authorities.

(Source: Amended at __ Ill. Reg. _____, effective _____)