



BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS

REGULATIONS

ON

**Customer Service and Support for Water, Wastewater, and
Storm Water Billing**

Authority: Baltimore City Charter, Art. VII; Baltimore City Code, Art. 24

I. Definitions.

- A. In these regulations, the following terms have the meanings indicated.
- B. Terms Defined.
 - 1. “Chief” means the Chief of the Office of Water-Customer Advocacy and Appeals within the Department of Public Works for the City of Baltimore.
 - 2. “City” means the Mayor and City Council of Baltimore acting as the legal entity known as the City of Baltimore.
 - 3. “Customer” means the owner or tenant of a property who receives or is requesting to receive water or wastewater services from the Department, or that owner’s or tenant’s authorized representative.
 - 4. “Director” means the Director of the Department of Public Works for the City of Baltimore
 - 5. “DPW” means the Baltimore City Department of Public Works.

II. Authority and Applicability.

- A. Authority.
 - 1. The General Assembly of Maryland has given the City the power to “establish, operate, maintain, regulate and control a system of water supply and to make charges for the consumption or use of such water” and to “turn off and discontinue the supply of water furnished by the Mayor and City Council of Baltimore to any person or property located in or outside of the City of Baltimore because of the nonpayment of any fee or charge for water supplied.” Baltimore City Charter, Article II, § (45); Code of Public Local Laws for Baltimore City, Subtitle 25.
 - 2. The City’s Charter vests most of the aforementioned powers in DPW by giving it charge of the water supply of the City and of all the properties, reservoirs, streams, pumping and filtration stations, pipes, apparatus and equipment appurtenant thereto and shall exercise all the powers and perform all the duties connected with the operation thereof and the supplying of water to customers. City Charter. Art. VII, § (33).
 - 3. Pursuant to the Baltimore City Charter, Art. VII Section 34, DPW shall have charge of the construction, operation and maintenance of all drains, sewers, and sewage disposal facilities, of the inspection or supervision of sewer or drain construction and repair work, and of waste disposal.
 - 4. The Director of DPW has the authority to adopt and enforce regulations governing its operations and the protection of the City’s water supply and facilities pursuant to Section 1-1 of Article 24 of the Baltimore City Code.
 - 5. The Director of the Department of Public Works (DPW) has the authority to adopt regulations governing its operations pursuant to several sections of the Baltimore City Code. City Code, Art. 24 § 1-1, Art. 25 § 1-2; Art. 27 § 1-2.

6. The Director of Finance has the power to collect amounts due and manage the lien process pursuant to Sections 10-13 of Article VII of the Baltimore City Charter.
- B. Applicability. These regulations apply to residents who receive bills from the City for water, wastewater, and/or storm water charges mailed on or after July 1, 2019.

III. Internal Review, and Determination.

- A. Internal Dispute Escalation
1. Should a customer choose to dispute a charge on their bill, the customer shall notify a DPW Billing Analyst by phone, via email, or in person.
 2. The Billing Analyst shall consult and collaborate with the appropriate Section or Division Manager as well as with the Chief, if necessary, in evaluating the dispute and rendering a determination.
 3. The Chief shall inform the Director of any decisions related to a water billing dispute, and obtain the Director's concurrence, prior to informing the customer of a decision.
 4. Subsequent to obtaining the Director's concurrence, the customer shall be informed of the decision and the right to seek assistance from the Office of Water-Customer Advocacy and Appeals.
- B. DPW shall establish an Office of Water-Customer Advocacy and Appeals in order to serve as a neutral arbiter for water billing disputes, composed of:
1. An office Chief;
 2. Customer Advocates; and
 3. Any support staff as may be necessary to administer the office.
- C. The Office of Water-Customer Advocacy and Appeals shall have the following authority and responsibilities:
1. Investigating water billing disputes and providing billing reductions where appropriate;
 2. Defending, on appeal, determinations made as a result of water billing investigations;
 3. Connecting customers to complementary social services; and
 4. Semi-annually reporting to the Committee for Office Oversight:
 - a. Data regarding the Office's water billing dispute investigations;

- b. Examples regarding common customer complaints, the manner in which DPW addresses those complaints, an assessment of those methods, and recommended alternative approaches;
 - c. Recommendations for changes to DPW rules, regulation, policies, or procedures that will promote fairness to customers and resolve customer concerns;
 - d. Recommendations for task forces and additional office staff; and
 - e. Recommendations for any other options for promoting fairness to customers and resolving customer concerns.
- D. DPW shall publish on its website, the phone number, email address, and physical address for the Office of Water-Customer Advocacy and Appeals, where customers may inquire about or formally dispute their water, wastewater, and/or storm water bills (“water bills”).
- E. Investigation.
 - 1. Office of Water-Customer Advocacy and Appeals.
 - a. Should a customer choose to formally dispute a charge on their bill, or related account-related action, the customer shall notify a Customer Care Advocate by phone, via email, or in person within 90 calendar days of any water bill or DPW determination or action.
 - b. The Customer Care Advocate shall conduct an investigation into:
 - i. The computation of charges on the water bill;
 - ii. The proper documentation of meter readings;
 - iii. The calculation of any credits;
 - iv. The potential for private-side leaks;
 - v. Any other material facts or reasonable claims asserted by the customer as to the cause of the disputed bill.
 - c. The Customer Care Advocate shall consult and collaborate with the appropriate staff within DPW’s Customer Support and Services Division, as well as with the Chief, as necessary to conduct a full investigation.
- F. Investigative Report
 - 1. Upon completing the investigation, the Customer Care Advocate shall issue a written report providing a statement regarding:

- a. The applicable law;
 - b. The facts found as a result of the investigation;
 - c. Any relief granted;
 - d. An explanation for the determination; and
 - e. The customer's appeal rights, including:
 - i. Deadlines and the method for filing an appeal; and
 - ii. The procedures by which the appeal will be heard.
2. The Office of Water-Customer Advocacy and Appeals shall mail a copy of the Investigative Report, via registered or certified mail, to the customer's last known address and provide a copy to the Chief of DPW's Customer Support and Services Division.
 3. Notice shall be deemed to have been given at the time of its deposit, postage prepaid in a facility regularly serviced by the United States Postal Service.
 4. If the Customer Care Advocate grants monetary relief, DPW's Customer Support and Services Division shall issue an adjusted bill for payment or credit the customer's account within thirty (30) days.

IV. Independent Review

- A. DPW shall contract with the Environmental Control Board to make available hearing officers to provide an independent review of customer appeals from a Customer Advocate's Investigative Report.
- B. For the purposes of these appeals, hearing officers will be deemed part of DPW so that records of the accounts can be shared with the hearing officers pursuant to state law. Md. Code, Gen. Prov., § 4-336(b).
- C. Request for Hearing.
 1. In order to obtain a hearing, a customer must file a written request with the Environmental Control Board within thirty (30) days of receipt of the Investigative Report.
 2. The Customer must include as an attachment to the written request, the underlying Investigative Report from which the customer is appealing.
 3. The appeal must articulate the issues for review.
 4. A written request must be submitted:
 - a. In-person, at an address designated by the Environmental Control Board;

- b. Electronically, on a form prepared by the Environmental Control Board; or
 - c. By certified mail, postmarked within 30 calendar days of the date the Investigative Report was postmarked by the Office of Water-Customer Advocacy and Appeals.
 5. Upon receipt of a hearing request, the Environmental Control Board shall provide notice to DPW.
 - D. Notice of Hearing.
 1. Within 30 days after receipt of a timely hearing request, the Environmental Control Board shall send a Hearing Notice to the Petitioner, DPW, and the Customer Advocate which shall provide:
 - a. The date, time, place, and nature of the hearing;
 - b. A statement of the right to present witnesses and documents, or other evidence, and the right to cross-examine any witness that another party calls;
 - c. A deadline for the parties to exchange and provide documents;
 - d. A deadline to identify and summarize the scope of testimony of any expert witnesses; and
 - e. Where deemed necessary or beneficial, a deadline for filing dispositive motions.
 2. A party seeking to alter a deadline set forth in the Hearing Notice must file a written motion with the Environmental Control Board.
 3. The Hearing Notice must provide the customer with at least 15 calendar days' notice prior to the scheduled hearing date.
 - E. Manner of Representation.
 1. A party may appear *pro se*, unless prohibited by law, or may be represented by an attorney authorized to practice law in Maryland.
 2. A party's representative of record shall be served with all notices, pleadings, and other correspondence.
 - F. Correspondence and Motions.
 1. Motions shall be made in the following form:
 - a. Motions shall be made in writing and shall articulate the requested relief or action; and
 - b. A party filing a motion shall attach any documents, as exhibits, that are necessary for a hearing officer to decide the issue.
 2. A party opposing the motion shall file a written response within fifteen (15) days, unless otherwise shortened or extended by the designated

hearing officer.

3. The moving party may file a written reply to an opposition within ten (10) days, unless otherwise shortened or extended by the designated hearing officer.
4. The designated hearing officer may schedule a hearing or telephone conference to hear oral argument on any motion.
5. The designated hearing officer shall provide a ruling on any motion in writing prior to the hearing or as part of the final administrative decision.
6. Dispositive motions shall only be permitted where the designated hearing officer determines that it is necessary or beneficial to the orderly and fair resolution of the case.
7. A party filing any pleading or correspondence with the Environmental Control Board shall promptly serve a copy on all other parties to the proceeding as verified through a signed certificate of service providing:
 - a. Date and manner of service and
 - b. The name and address of each person served.

G. Conduct of Hearings.

1. Hearings shall be conducted in a full, fair, impartial, and orderly manner.
2. The designated hearing officer shall:
 - a. Administer oaths and affirmations;
 - b. Rule upon offers of proof and receive relevant and material evidence;
 - c. Consider and rule upon any motions deemed appropriate in the subject proceeding;
 - d. Examine witnesses;
 - e. Limit unduly repetitious testimony and reasonably limit the time for presentations;
 - f. Grant a continuance or postponement where deemed necessary or appropriate;
 - g. Modify or waive, reasonably and for good cause, any established deadlines;
 - h. Require parties to submit legal memoranda, and proposed findings or conclusions of law, where deemed appropriate; and
 - i. Issue orders as are necessary to ensure order and administrative fairness and to eliminate unjustifiable expense and delay.
3. Formal rules of evidence shall not apply during the hearing.
4. DPW shall have the initial burden of establishing a *prima facie* case.

- a. DPW will meet the burden of establishing a *prima facie* case when DPW establishes:
 - i. The consumption as shown on the customer's bill(s) or meter supports the usage charges on the water bill;
 - ii. The meter was bench tested, and the test confirms the accuracy of the meter; or
 - iii. Any other relevant information as determined by the Hearing Officer.
 - b. Once DPW has established a *prima facie* case, the customer shall have the burden of demonstrating that the bill is inaccurate.
5. The hearing shall be filmed, recorded, or transcribed.
6. If the Hearing Officer agrees, the parties can participate in the hearing virtually, and/or the entire hearing can take place virtually.
- H. The Customer Advocate, or if unavailable, another representative from the Office of Water-Customer Advocacy and Appeals, shall appear at the hearing in person or virtually, and may be questioned by the customer, DPW, and the hearing officer.
- I. Independent Recommendation.
 1. The designated hearing officer shall provide a proposed written decision following the hearing articulating:
 - a. Findings of fact;
 - b. Legal determinations based on the facts found;
 - c. A recommendation on the disposition of the matter including any proposed relief; and
 - d. Rights for either party to appeal the decision to the Director.
 2. The hearing officer's proposed decision may not increase any charges in a bill issued to a residential or tenant-water-utility customer.
 3. The Environmental Control Board shall promptly serve a copy of the proposed decision on each party to the proceeding, no later than 30 days after the hearing, unless the customer agrees in writing to a longer period.
- J. Administrative Record.
 1. The administrative file shall include:
 - a. The proposed decision;
 - b. A transcript, video, or audio recording of the hearing;

- c. All correspondence, motions, stipulations, exhibits, or other papers filed in the agency proceeding; and
- d. Any other document, presentation, or item submitted during the proceeding.

K. Final Decision.

- 1. Upon transmittal from the Environmental Control Board, the Director shall promptly review the proposed decision and record, and may either:
 - a. Issue a Final Agency Decision adopting the proposed Environmental Control Board's decision;
 - b. Reject the proposed decision, and issue a written Final Agency Decision, specifying each modification and explaining the reasons for each modification; or
 - c. If the proposed decision fails to provide sufficient information on which to render a decision, remand the decision to the Environmental Control Board for further proceedings.
- 2. The Director shall promptly serve a copy of the Final Agency Decision or order on each party to the proceeding.

L. Judicial Review. If either party disputes the Director's final decision, the party shall have the right to seek judicial review in a court of law of appropriate jurisdiction.

V. **Effective Date**

These regulations shall be effective _____, 2020.

Issued and Approved:

Matthew W. Garbark, Acting Director
Department of Public Works

Date

Hilary Ruley
Law Department

Date

Avery Aisenstark
Legislative Reference

Date