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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 91 LCM-162

Date: September 13, 1991

Division: Income Maintenance

TO: Local District Commissioners

SUBJECT: Chapter 654 of the Laws of 1991

ATTACHMENTS: Chapter 654 - not available on-line

This is to provide you with information on Chapter 654 of the Laws of 1991 which impacts residents of dwellings with shared utility meters.

This law, which becomes effective October 24, 1991, ensures that residential tenants who rent dwellings with shared utility meters will not be obligated to pay for service for areas outside of their own dwelling units. A shared meter is defined in the law as a utility meter which measures service to the resident's dwelling and to space outside of that dwelling.

The purpose of this law, which amends Public Service Law, is to assign the responsibility for charges registered through a shared meter to an owner, to require a utility to investigate shared meter complaints, to make a determination that it is or is not a shared meter, and upon a determination that the meter is shared, to change the billing and require the landlord to assume responsibility for payment of the charges.

The following is a brief summary of the provisions of this bill:

- o Owner's Responsibility - Owners/landlords are responsible to establish an account in the owners name for a shared meter effective on the latter of:
 - a) the first day of tenancy; or
 - b) the date the shared meter situation began; or
 - c) the 30th day after the owner knew/should have known that a third party whose service was measured through a shared meter had caused or benefited from a shared meter situation.

- o Shared Meter Complaints - A utility is required to investigate and determine the validity of a customer's complaint and provide a determination in writing within twenty (20) business days of the date of complaint.

Failure by the owner to provide access or to cooperate results in a determination that the meter is shared. Failure by the customer to provide access or to cooperate results in the suspension of the investigation.

- o Change in Billing - Once it is established that a shared meter exists, the utility will:
 - a) establish an account in the owner's name and bill for future costs;
 - b) bill the owner for charges previously billed to the customer. Prior to January 1, 1993, the owner will be billed for pro-rated charges from which the customer's estimated use has been deducted. After January 1, 1993, the owner will be billed in full;
 - c) cancel charges billed to the shared meter customer. However, when a third party whose service was measured through a shared meter had caused or benefited from a shared meter situation, credit the estimated use by third party;
 - d) refund payments made by the shared meter customer once the owner has been billed and has paid charges; and
 - e) bill the third party.
- o Refunded and Cancelled Utility Charges - The owner may not bill the shared meter customer for retroactive or future charges, but this does not preclude an owner from increasing rent.
- o Related Action - If the owner/tenant demonstrates that the shared meter situation was caused/benefited a third party, the owner/tenant is entitled to recover the charges billed to the owner/tenant's account in a civil action against the third party.
- o The provisions of the above sections:
 - a) may not be waived by an owner, tenant or utility;
 - b) do not apply to service prior to October 24, 1991; and
 - c) will not affect a lease/rental agreement effective prior to October 24, 1991. A renewal and extension after October 24, 1991 is considered a new lease/rental agreement and is covered under the provisions of this bill.

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The Department is currently in the process of reviewing the effects that the passage of this law will have on energy policy. Further instructions regarding the impact of this bill will be forthcoming. A copy of the bill is enclosed for your information.

Thank you for your cooperation. If you have any questions, please call your Energy Bureau liaison at 1-800-342-4100, extension 4-9321.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance