

# **New York City Water Board**

## **Regulation Number 4**

### **Billing Interference**

**Effective:** July 1, 2009, as subsequently amended through the amendment effective July 1, 2025.

### **Statement of Basis and Purpose**

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

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

It is evident that when a customer receives System services it should be billed a fair and equitable amount in proportion to the quantity of services provided and received and in proportion to other users of the System. When actions taken by a customer interfere with or have the potential to interfere with the accurate measurement of service usage to the extent that the usage measurement devices may reflect less than the quantity of services actually received, the charges rendered for such usage accordingly may be understated. Such billing interference by a customer, whether by direct action or by the toleration of actions taken by others, negatively affects the Board’s ability to levy and collect rates and charges in a fair and equitable manner from all properties connected to the System and imposes additional costs on every responsible customer of the System. This Regulation is intended to recover those costs directly from the parties responsible for or benefiting from the impairment of System revenue. In addition, water and wastewater charges are a lien on the premises served and all charges issued pursuant to this regulation will, if unpaid, constitute a lien on the property served and a charge against the owner thereof.

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When system services are tampered with, a reasonable inference can be made that the party receiving the tampered service received more services than was previously charged and collected. Therefore, the charges imposed for the period of suspected billing interference should be in excess of the average recorded usage for the property. Because billing interference implies impeding the ability of service usage measurement devices to record actual usage, it is impossible to know with certainty the precise quantity of services received. In order to properly recover the appropriate revenue a reasonable approximation of the usage level must be made. This estimation should serve to both recover the revenue associated with the amount of services which could have been received and at the same time act as a rational disincentive to other and future billing interference. Accordingly, the Board will impose an attributed consumption charge that will be equivalent generally to usage by high consumers in the building usage class associated with the property in question for the applicable period of prospective and retroactive billing. In addition, this Regulation will impose charges to recover the fixed costs associated with investigating and determining that services and revenue were compromised and that the tampered service has been corrected by imposing a fixed account administration fee on each account where a determination of billing interference has been made by DEP. Customers that disagree with the imposition of the account administration fee or attributed consumption charge may utilize the Board's existing appeal process as provided for in the Rate Schedule.

DEP procedures require that, upon installation of a meter connected to the water supply system, DEP must inspect and seal the meter. Sealing of the meter indicates DEP approval of the installation and prevents tampering. Whenever it inspects a meter, DEP always inspects to make sure that the meter is sealed and that the seal remains intact. If the seal is broken, it becomes possible for anyone to tamper with the meter and to falsify readings. Accordingly, having an unsealed meter in place constitutes billing interference.

This regulation was considered at public hearings held on April 27, 28, 29, and 30, 2009, was approved by the New York City Water Board at its meeting of May 15, 2009, and became effective July 1, 2009. This First Amendment was considered at public hearings held on May 27, 28, 29, June 2, and 3, 2025, was approved by the New York City Water Board on June 6, 2025, and became effective July 1, 2025. This First Amendment changes the title of this Regulation from "Theft of Service" to "Billing Interference;"<sup>1</sup> adds a provision for the issuance of a Billing Interference Warning Notice issued prior to

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<sup>1</sup> Since its adoption in 2009 and by its very terms, Regulation No. 4 has always applied to both intentional and unintentional, but otherwise culpable, conduct that impedes DEP's ability to accurately bill water consumption and/or imposes costs on the System. The use of the term Billing Interference more accurately describes the content of Regulation No. 4. Any reference to a prior determination of Billing Interference in this Regulation, Water Board Regulation No. 2, Termination of Service, Water Board Regulation No. 3, Denial of Access, and the Rate Schedule, includes any prior determination of Theft of Service pursuant to this Regulation No. 4 prior to the effective date of this current version of Regulation No. 4.

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the imposition of the Billing Interference Account Administration Fee and Attributed Consumption Charges; explicitly lists conditions that have always been one of the predicates for a Determination of Billing Interference, though previously not listed by name in the Regulation; explicitly excludes conditions that do not constitute Billing Interference; revises notice and mailing provisions for Billing Interference Warning Notices and Billing Interference Cease and Desist Orders; and other miscellaneous changes.

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#### **Section 1. Definitions**

As used in this Regulation, the following terms<sup>2</sup> shall have the respective meanings ascribed to them below:

- (1) “Access” means the ability to inspect a Customer’s water and/or wastewater service and premises in order to ensure the accuracy of charges and includes, but is not limited to the ability to inspect, test, install, repair or upgrade water meters, remote reading devices and any appurtenant System equipment.
- (2) “Attributed Consumption Charges” are the charges authorized pursuant to the Rate Schedule in addition to the Billing Interference Account Administration Fee following DEP’s issuance of a Determination of Billing Interference.
- (3) “Authorized Representative” means any individual or organization who has an original ‘Letter of Authorization’ (“LOA”) on file with DEP, signed by the owner of the premises and notarized, designating that individual or organization as the Authorized Representative. If such LOA fails to state a specific end date, DEP will deem it to expire one year from the date of notarization. A valid Letter of Authorization must contain a statement that the owner hereby rescinds any previously issued LOA. In cases where an owner has authorized multiple representatives, DEP shall deem the latest dated LOA to be valid, superseding any earlier dated LOA.
- (4) “Billing Interference” means such circumstances as set forth in Section 3.1 of this Regulation.
- (5) “Billing Interference Account Administration Fee” is the fee authorized pursuant to the Rate Schedule upon DEP’s issuance of a Determination of Billing Interference.
- (6) “Billing Interference Cease and Desist Order” means the notice provided to a Customer by DEP stating that the Billing Interference Account Administration Fee

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<sup>2</sup> Terms used in this Regulation, which are not defined herein, shall have the meanings set forth in New York City Water and Wastewater Rate Schedule then in effect for the period during which Billing Interference was at issue. Should the same term be defined both in this Regulation and the Rate Schedule, for purposes of this Regulation, the definition herein shall govern.

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and Attributed Consumption Charges have been imposed on the Customer's account.

- (7) "Billing Interference Regulation" means this Water Board Regulation No. 4, Billing Interference, effective July 1, 2009 as subsequently amended through the amendment effective July 1, 2025.
- (8) "Billing Interference Warning Notice" means the notice provided to a Customer by DEP warning that, if the Customer fails to act within 30 days to correct the illegal plumbing condition or, in the case where DEP has evidence of actual water usage during any time when the billing interference condition persisted and regardless of whether the illegal plumbing condition is fixed within the 30 day period, DEP will impose the Billing Interference Account Administration Fee and Attributed Consumption Charges on the Customer's account pursuant to a subsequently issued Billing Interference Cease and Desist Order.
- (9) "Board" means the New York City Water Board.
- (10) "Charges" means fees, rates, rents or other charges imposed by the Board and/or DEP pursuant to the Rate Schedule.
- (11) "City" means The City of New York.
- (12) "Customer" means a current property owner or Authorized Representative of a property owner.
- (13) "Days" unless otherwise stated means calendar days.
- (14) "Delinquent Charges" shall mean Charges which remain unpaid after the due date thereof.
- (15) "Demand for Access" means the issuance of a notice by DEP to a Customer which requires the Customer to provide and/or facilitate access to the Customer's premises to DEP at a time and in a manner acceptable to DEP.
- (16) "Denial of Access" means a failure of the Customer to provide and/or facilitate access to DEP as required in the Demand for Access.
- (17) "Denial of Access Regulation" means Water Board Regulation No. 3, Denial of Access, effective July 1, 2002, as subsequently amended through the amendment effective July 1, 2025.

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- (18) “DEP” means the New York City Department of Environmental Protection or any authorized agents of DEP.
- (19) “Determination of Billing Interference” means DEP’s written notice of a finding of Billing Interference.
- (20) “Rate Schedule” means the Board’s Water and Wastewater Rate Schedule then in effect when the Billing Interference occurred.
- (21) “System” means the Water Supply System and the Wastewater System collectively.
- (22) “Termination of Service”, “Terminate Service”, “Terminating Service”, “Terminate”, and all such similar word forms mean the discontinuance or disconnection of the supply of water and/or the provision of wastewater service to any Customer.
- (23) “Termination of Service Regulation” means Water Board Regulation No. 2, Termination of Service, effective February 29, 2008, as subsequently amended through the amendment effective July 1, 2025.
- (24) “Water Board” means the New York City Water Board.
- (25) “Water Board Regulations” means collectively, the Termination of Service, Denial of Access and Billing Interference Regulations.
- (26) “Water Supply System” and “Wastewater System” mean, respectively, the water system and wastewater system under the control and jurisdiction of the Board.

**Section 2. General Provisions**

**2.1 No Alteration of Rights, Powers and Privileges of DEP and Board.**

Nothing contained herein shall be deemed to alter, amend or modify the rights, powers, or privileges of DEP or the Board otherwise conferred by law, or to subject DEP or the Board to the jurisdiction of any other governmental agency, authority, board, bureau, department or other body with respect to any Determination of Billing Interference.

**2.2 Delivery of Notices.**

Unless otherwise specified, delivery of notices as provided herein shall be made by

regular mail.

### **2.3 Termination in Addition to Other Remedies.**

Anything in this Regulation to the contrary notwithstanding, Termination of Service, pursuant to the Termination of Service Regulation, shall be in addition to, and not in lieu of, any other right or remedy available to DEP or the Board with respect to Delinquent Charges, including (without limitation) the imposition and enforcement of a lien on real property or a collection action to the extent permitted by applicable law.

## **Section 3. Determination of Billing Interference**

### **3.1 Definition of Billing Interference.**

- (a) The Customer is responsible for safeguarding the meter and meter appurtenances and ensuring the integrity of the property's plumbing system. DEP shall make a Determination of Billing Interference upon a finding by DEP that any of the following conditions are present on a premises and that such conditions reasonably are associated with the taking of System services and the impairment of the billing therefor:
  - i. Unauthorized bypass of the meter;
  - ii. Tampering with the meter;
  - iii. Breaking, picking or damaging the meter seal;
  - iv. Removing, disabling or adjusting meter registers;
  - v. Removing the meter or removing and installing the meter backwards;
  - vi. Moving the meter without permission;
  - vii. Installing or replacing a meter without a permit from DEP or installing or replacing a meter and failing to return the completed permit to DEP or having a meter in place without DEP sealing the meter;
  - viii. Extending authorized flat-rate residential services to any unauthorized commercial users;
  - ix. Extending authorized flat-rate residential services to any additional unauthorized residential services;
  - x. Unauthorized connections to water lines, hydrants, valves or other appurtenances not owned by the Customer;
  - xi. Tampering with any equipment designed to supply or to prevent the supply of any System services either to the public or to the Customer's premises;
  - xii. Use of sprinkler system water service for any purpose other than fire protection;

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- xiii. Obstructing, defacing or destroying the meter to prevent a meter reading;
- xiv. Any unauthorized direct or indirect connection to the meter or water supply system;
- xv. Any unauthorized direct or indirect connection to the sewer system; or
- xvi. Any other action or inaction that may reasonably result in costs to the System or the loss of revenue to the Board.

(b) The following conditions shall not be deemed to constitute Billing Interference:

- i. Having a tee connection before the meter, for which the customer received approval from DEP and for which there is no evidence of water usage from the unmetered leg of the tee connection; and
- ii. Removing a meter without a permit, where the water service was previously plugged or the tap connecting the service line to the water main has been destroyed pursuant to a DEP permit.

### 3.2 Observation of Billing Interference.

If DEP observes a Billing Interference condition, DEP shall issue a Billing Interference Warning Notice. This Warning Notice shall be sent by regular mail to the owner and any Authorized Representative at the property address and any other address to which the Customer receives the bills for water and wastewater charges, and to any email addresses of the Customer or Authorized Representative on file with DEP. The Billing Interference Warning Notice shall require the Customer to correct any conditions identified therein within thirty days of the notice date and shall require the Customer to promptly provide and/or facilitate Access to the premises for a confirmation inspection at a time and in a manner acceptable to DEP. Should the Customer fail to correct the unlawful condition and request a confirmation inspection within 30 days of the Billing Interference Warning Notice, or, in the case where DEP has evidence or a reasonable belief of actual water usage during any time when the billing interference condition persisted and regardless of whether the illegal plumbing condition is fixed within the 30 day period, DEP shall issue a Determination of Billing Interference and a Billing Interference Cease and Desist Order, which shall impose on the Customer's account the Billing Interference Account Administration Fee and Attributed Consumption Charges as indicated in the Rate Schedule. This Determination and Order shall be sent by regular and certified mail to the owner and any Authorized Representative at the property address and any other address to which the Customer receives the bills for water and wastewater charges, to any Authorized Representative at the address provided to DEP, and to any email addresses of the Customer or Authorized Representative on file with DEP.

Should DEP not make any of the mailings or email notifications set forth in this section



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3.2, it shall have no bearing on DEP's ability to impose the Billing Interference Account Administration Fee or any Attributed Consumption Charges, provided that DEP has proof of the Customer's actual knowledge of the Billing Interference condition.

**3.3 Suspicion of Billing Interference.**

DEP may suspect Billing Interference in any situation where DEP has a reasonable basis to believe a Billing Interference condition exists, including but not limited to stagnant or low meter readings for the property type or a Denial of Access. In such circumstances, DEP may issue to the Customer a Demand for Access to the meter and the premises. The Demand for Access notice shall be sent by regular and certified mail to the owner and any Authorized Representative at the property address and any other address to which the Customer receives the bills for water and wastewater charges, to any Authorized Representative at the address provided to DEP, and to any email addresses of the Customer or Authorized Representative on file with DEP. The Demand for Access shall provide the Customer with information on how to arrange an inspection with DEP. The Customer must provide and/or facilitate Access within fourteen (14) days of the notice.

**(a) Customer Provides Access – No Billing Interference.**

If the Customer provides and/or facilitates Access to the premises within fourteen (14) days of the notice and the inspection confirms there is no Billing Interference or suspected Billing Interference, the account will not be subject to the Billing Interference Account Administration Fee and Attributed Consumption Charges, but may be subject to any upward or downward adjustment of charges otherwise authorized pursuant to the Rate Schedule.

**(b) Customer Provides Access – Determination of Billing Interference.**

If the Customer provides and/or facilitates Access to the premises within fourteen (14) days of the Demand for Access notice and the inspection confirms a Billing Interference condition, DEP shall issue a Billing Interference Warning Notice as set forth in Section 3.2.

**(c) Customer Does Not Provide Access.**

If Access is not provided and/or facilitated within fourteen (14) days of the date of the Demand for Access notice, DEP is authorized to pursue all enforcement actions authorized by the Water Board Regulations and the Rate Schedule.

## **Section 4. Fees and Charges**

### **4.1 Billing Interference Account Administration Fee and Attributed Consumption Charges.**

DEP shall impose the Billing Interference Account Administration Fee and Attributed Consumption Charges backdated to the date that DEP has a reasonable belief that the Billing Interference began up to a maximum of four years as indicated in the Rate Schedule in each case where DEP has issued a Determination of Billing Interference pursuant to this Regulation. DEP will continue billing based upon Attributed Consumption Charges will continue until the Billing Interference Cease and Desist Order is complied with as confirmed by DEP inspection.

### **4.2 Meter Repair or Replacement.**

Pursuant to the Rate Schedule, the Customer is responsible for the actual replacement or repair cost to any meter or DEP equipment that has been damaged.

### **4.3 Customer Appeal of Fees or Charges.**

Customers that disagree with the imposition of the Billing Interference Account Administration Fee or Attributed Consumption Charges imposed pursuant to this Regulation and the Rate Schedule may utilize the Board's appeal process as provided for in the Rate Schedule.

## **Section 5. Enforcement**

### **5.1 Lienable Charges.**

All Billing Interference charges and fees are Charges and if they are not paid are a lien on the premises served pursuant to Section 1045-j of the New York State Public Authorities Law.

### **5.2 Termination of Service for Failure to Comply with a Billing Interference Cease and Desist Order.**

If a Customer fails to comply with a Billing Interference Cease and Desist Order, DEP may commence Termination of Service pursuant to Water Board Regulation No. 2, Termination of Service.