



**New York State
Division of Housing and Community Renewal
Office of Rent Administration**

Operational Bulletin 2003-1

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(Replaces Operational Bulletin 96-2)

***Conversion from Master to Individual Metering of Electricity with Direct Payment by Tenant
Schedule of Rent Reductions Affecting:***

New York City Rent Stabilization Code (RSC) ***New York City Rent and Eviction Regulations (CRER)***
Emergency Tenant Protection Regulations (TPR) ***New York State Rent and Eviction Regulations (SRER)***

This Operational Bulletin is issued under authority of Sections 2522.4 and 2527.11 of the RSC; Sections 2502.4 and 2507.11 of the TPR; Sections 2202.16 and 2209.8 of the CRER, and Sections 2101.4 and 2109.8 of the SRER.

This Operational Bulletin establishes a schedule of rent decreases for rent stabilized and rent controlled housing accommodations, where, with the approval of DHCR, there is a conversion from master metering of electricity, with inclusion of the cost of electricity in the rent, to individual metering whereby the tenant becomes responsible for the cost of his or her own electrical consumption. This Operational Bulletin supersedes Operational Bulletin 96-2 (issued August 28, 1996), and Administrator's Interpretation No. 7 (issued March 21, 1975 and applicable to New York City rent controlled housing accommodations), and any other outstanding formula or schedule for setting rents upon electrical conversion of rent regulated housing accommodations.

Background

The State of New York has long recognized the broad social and economic goal of conservation of energy, a policy that was last enunciated by the New York State Energy Planning Board, in its 1998 *New York State Energy Plan and Final Environmental Impact Statement*. Accordingly, state and city agencies have sought wherever possible to fashion their policies and procedures to be supportive of this goal.

Since the 1970s, there have been increases in the cost of electricity due to international market conditions, and in consumption of electricity due to a proliferation of electrical home appliances. Rent regulated tenants in master-metered buildings receive unlimited electric current as a service included in the rent, and there is no incentive to the tenants to moderate their consumption of electricity.

A proven incentive for moderation of such consumption is individual metering of electricity, as it makes each user responsible for the cost of his or her own consumption. Thus, DHCR (and its predecessor agencies) has had a long-standing policy of permitting, and indeed encouraging, owners of master-metered buildings to undergo the substantial expense of converting their buildings to individual metering, thereby transferring responsibility for the cost of their consumption of electricity to the tenants.

Recognizing that assuming the cost of their own electricity could also be a financial burden on the tenants, DHCR has sought to mitigate that burden by imposing building-wide rent reductions as a condition to conversion. The reductions were established by a formula that was designed to provide owners with an incentive to undergo the expense of conversion while at the same time ameliorating the financial impact of direct billing on the tenants.

This document is being reissued for informational purposes only.

The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.

Over the years the rent reduction formula has been subject to revision based on prevailing considerations of policy and economic conditions. Most recently, DHCR's experience has shown that the formula has tended to discourage owners from undergoing the expense of conversion. This has been confirmed by the relative dearth of conversion applications filed with the agency, and a 1996 report by the New York State Energy Research and Development Agency (NYSERDA) entitled *Facilitating Submetering Implementation*.

Recognizing the need for a new rent reduction formula, DHCR consulted with NYSEDA, and joined with that agency to commission a study by a recognized architectural and engineering firm, Wendel Duchscherer. Upon completion of the study, entitled *Rent Reduction Analysis*, DHCR, with the advice and guidance of NYSEDA, developed the rent reduction formula described herein.

Direct Metering and Submetering

There are two types of individual metering: Direct metering and submetering. Under direct metering the tenant purchases electricity directly from a utility or energy service company at a residential rate. Under submetering the tenant purchases electricity from the owner or a contractor retained by the owner, who in turn purchases it from a utility or energy service provider at a bulk rate.

Submetering has the advantage of reducing the cost of electricity to the tenant, since the bulk rate paid by the owner, even when combined with the owner's meter-reading and billing costs, is generally significantly less than the residential rate. Submetering can also contribute to energy conservation when combined with "advanced metering" under which the submeter is capable of measuring not only the amount of electricity consumed, but also the time of day in which it was consumed. Since the bulk rate may vary depending on demand and time of usage, this permits the tenant to schedule the use of high consumption appliances such as dishwashers and clothes dryers during off-peak hours of usage such as late evenings when the rates may be lower.

State policy of promoting energy conservation includes encouraging owners of master-metered buildings to convert to individual metering. NYSEDA believes that individual metering, under which each consumer is responsible for his or her own electrical consumption, provides a significant incentive for conservation of electricity, and that submetering further enables consumers to benefit from lower bulk electric rates and the ability to concentrate use during times of day when rates are lowest. Accordingly, NYSEDA has developed programs to provide information, technical assistance, and monetary incentives for owners who undergo the expense of conversion.

Rewiring the Building in Connection with Electrical Conversion

It has been long standing DHCR policy to require owners who wish to convert from master metering to direct metering to rewire the building as part of the conversion process. This requirement is continued as it promotes the public safety and provides tenants with the energy necessary to run modern appliances. Accordingly, owners intending to convert to direct metering are required to rewire the building unless they can establish to DHCR's satisfaction that rewiring is unnecessary.

DHCR is mindful that there are owners such as cooperative or condominium apartment corporations who are unable to take on the economic burden of rewiring, but who nevertheless find submetering to be an attractive option to reduce energy costs and promote energy conservation. Accordingly, DHCR will not require rewiring where an owner seeks to convert to submetering. However, the owner must provide DHCR with an affidavit sworn to by a licensed electrician that the existing wiring is safe and of sufficient capacity for the building.

Rent Reduction Formula

Upon granting an owner's application to convert from master to individual metering of electricity, DHCR will apply schedules of rent reductions for rent controlled and rent stabilized housing accommodations that are converted to individual metering. The schedules are derived from the New York City Rent Guidelines Board's tabulation of data from the United States Census Bureau's "2002 New York City Housing and Vacancy Survey" (HVS) which is the most recent survey, having been published in 2003. That data is available on the New York City Rent Guidelines Board's website at www.housingnyc.com. In the future, upon publication of a new HVS and tabulation of the new data by the Rent Guidelines Board, DHCR will promulgate a new Operational Bulletin that will incorporate data from that survey in the same manner as is set forth herein.

Recognizing that under submetering the tenant will be able to incur a lower cost for electricity, and in order to provide the owner with an incentive to convert to submetering rather than direct metering, the schedule of rent decreases for submetering is lower than the schedule for direct metering.

Direct Metering

Where the conversion is to direct metering, the schedule of rent reductions is based on the median monthly cost of electricity to tenants derived from the data from the 2002 HVS. When applied outside New York City, the schedule of rent reductions is adjusted where appropriate to reflect differences in electric rates outside New York City.

Submetering

Where the conversion is to submetering, the schedule of rent reductions is based on the median monthly cost of electricity to tenants in the 2002 HVS, adjusted to reflect the bulk rate plus a maximum reasonable service fee of \$4.00 for the cost of meter reading and billing. That fee is based on an estimated maximum charge set forth in the Residential Electrical Submetering Manual (revised October, 2001) prepared for the New York Energy Research and Development Authority, and available on its website at www.nyserda.org. When applied outside New York City, the schedule of rent reductions is further adjusted where appropriate to reflect differences in electric rates outside New York City. Under submetering the owner or contractor retained by the owner is not permitted to charge the tenant more than the bulk rate for electricity plus a reasonable service fee to cover the cost of meter reading and billing. However, after the conversion, the cost of electricity and service fee are not part of the legal regulated rent, and billing disputes are not under the jurisdiction of DHCR.

Protection of Senior Citizens

After the conversion, all tenants are responsible for their own electric bills except those who, on the date of the conversion, are receiving a Senior Citizen Rent Increase Exemption (SCRIE) under Section 26-509 of the Rent Stabilization Law (applicable to rent stabilized housing accommodations inside New York City), Section 26-406 of the City Rent and Rehabilitation Law (applicable to rent controlled housing accommodations in New York City), or pursuant to local law as authorized by Section 467-b of the Real Property Tax Law (applicable outside New York City). For those tenants the rent is not reduced and the cost of electricity remains included in the rent, although the owner is permitted to install any equipment in such tenant's housing accommodation as is required for effectuation of the electrical conversion. After the conversion, upon the vacatur of the tenant, the owner is required to reduce the legal regulated rent or maximum rent for the housing accommodation in accordance with the schedule of rent reductions set forth in this Operational Bulletin or any update thereto which is in effect at the time of the vacancy, and thereafter the tenant is responsible for the cost of his or her consumption of electricity, and for the legal regulated rent as reduced, including any applicable major capital improvement rent increase based upon the cost of work done to effectuate the electrical conversion.

After the conversion, if a tenant ceases to receive SCRIE benefits, the owner may reduce the rent and the tenant becomes responsible for electric bills for the period in which the tenant is not receiving SCRIE benefits. However, if the tenant is later reinstated in the SCRIE program, the owner is required to eliminate the rent reduction and resume responsibility for the tenant's electric bills.

Additional Charges for Appliances

After the conversion, for every unit that becomes individually metered, the owner will not be permitted to collect any previously authorized appliance charges to offset the cost of operating appliances which consume large quantities of electricity (i.e., air conditioners), but will be permitted to impose any surcharge or other additional charge that is permitted for an individually metered building. The schedules of rent adjustments set forth herein, along with the elimination of the authorized appliance charges, will be the only decreases in rent allowed and will not be followed by any additional decreases, except for any adjustments that are permitted for the protection of senior citizens as described above.

SCHEDULE OF RENT REDUCTIONS

<u>New York City</u>	Direct Metering	Submetering
1 Room	\$40.00	\$30.81
2 Rooms	\$40.00	\$30.81
3 Rooms	\$45.00	\$35.27
4 Rooms	\$50.00	\$39.59
5 Rooms	\$55.00	\$44.06
6 Rooms	\$60.00	\$48.38
Over 6 rooms add	\$ 5.00	\$ 4.39 per room

<u>Westchester</u>	Direct Metering	Submetering
1 Room	\$40.00	\$30.81
2 Rooms	\$40.00	\$30.81
3 Rooms	\$45.00	\$35.27
4 Rooms	\$50.00	\$39.59
5 Rooms	\$55.00	\$44.06
6 Rooms	\$60.00	\$48.38
Over 6 rooms add	\$ 5.00	\$ 4.39 per room

<u>Rockland</u>	Direct Metering	Submetering
1 Room	\$32.14	\$21.54
2 Rooms	\$32.14	\$21.54
3 Rooms	\$36.03	\$24.47
4 Rooms	\$39.78	\$27.29
5 Rooms	\$43.67	\$30.22
6 Rooms	\$47.43	\$33.04
Over 6 rooms add	\$ 3.82	\$ 2.88 per room

<u>Nassau</u>	Direct Metering	Submetering
1 Room	\$31.72	\$26.09
2 Rooms	\$31.72	\$26.09
3 Rooms	\$36.06	\$29.77
4 Rooms	\$40.26	\$33.33
5 Rooms	\$44.60	\$37.01
6 Rooms	\$48.80	\$40.57
Over 6 rooms add	\$ 4.27	\$ 3.62 per room

<u>Albany</u>	Direct Metering	Submetering
1 Room	\$38.71	\$24.57
2 Rooms	\$38.71	\$24.57
3 Rooms	\$42.58	\$28.00
4 Rooms	\$46.31	\$31.32
5 Rooms	\$50.18	\$34.74
6 Rooms	\$53.91	\$38.06
Over 6 rooms add	\$ 3.80	\$ 3.37 per room

<u>Erie</u>	Direct Metering	Submetering
1 Room	\$38.71	\$24.57
2 Rooms	\$38.71	\$24.57
3 Rooms	\$42.58	\$28.00
4 Rooms	\$46.31	\$31.32
5 Rooms	\$50.18	\$34.74
6 Rooms	\$53.91	\$38.06
Over 6 rooms add	\$ 3.80	\$ 3.37 per room

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