

Chapter 7 Bankruptcy & Utility Bills—What Happens?

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Utility bills, in one way, are just like any other unsecured debt—they are discharged in a successful chapter 7 bankruptcy. So, relief from the outstanding amount at the time of filing for bankruptcy can occur. But that is where the similarity to other unsecured debts ends. 11 U.S.C. § 366. Usually, a creditor has the right to stop extending credit to someone who has filed bankruptcy. One significant difference in how utilities are treated is that they have to continue to provide service after the bankruptcy is filed. However there is a catch. Utility companies have the right to demand “adequate protection” within 20 days of the date of the bankruptcy filing. This can take many forms, including: a cash deposit, letter of credit, certificate of deposit, surety bond, prepayment, or what is agreed upon between the parties. The bankruptcy code does not limit the amount the utility can ask for. If a utility does ask for what a debtor believes is too high a deposit, he can request that the court modify the amount required. The bankruptcy court will determine what is reasonable under the circumstances, and ultimately has the final say. In determining “a reasonable modification” to the utilities’ demand, Bankruptcy courts have typically followed what state regulations allow.

The other major difference is that the utility does not need “relief from the automatic stay” (permission from the bankruptcy court) before terminating service after the petition is filed for failure to pay what is due after the bankruptcy. The utility would still have to satisfy state law however, and state law typically provides significant regulation on the subject.

If you are a potential debtor, before becoming concerned that after bankruptcy you will be required to provide a significant deposit to your utilities, the practical world needs to be considered. It is quite rare in this area for a utility to request a deposit. It is quite unlikely to occur in Massachusetts. We surmise that this is because Massachusetts law does not allow a utility company to require a deposit before providing service, or require an advanced deposit to restore service after it was terminated. 220 CMR 25.00 et seq. (Commercial owners and commercial tenants are a different story. 220 CMR 26.00 et seq.) So, in all likelihood, the amount owed prior to filing will be discharged, the utility company will reset the account as if a new account started the day of the bankruptcy filing, and you will simply have to pay for service going forward. Bankruptcy will most likely have little to no effect on how a utility will operate after the bankruptcy is filed. However, if you have any questions on how the law applies to a particular situation, as there can be facts that could complicate the matter, it is wise to seek competent legal advice. Please feel free to give this office a call.

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Utility bills, utilities, bankruptcy, chapter 7 bankruptcy and utility bills in MA, adequate protection and utility bills after bankruptcy, can my utility company request a deposit after I have gone through bankruptcy?, can my utility company request a deposit to restore service?, reasonable modification to utilities' request for a deposit after bankruptcy