



What to do if...

My Building is Being Submetered?

Submetering is a system that allows property owners to sell electricity service to occupants based on each unit's electricity consumption. If you are a tenant living in New York City, your apartment's electricity might become submetered. As energy costs rise, many landlords are trying to transfer those costs to their tenants by submetering their buildings.

What is Submetering?

When a building is submetered, the utility or electric service provider delivers electricity to the "master meter" (the landlord's meter for the whole building) at bulk rates. The landlord distributes this energy to tenants through "submeters" in each tenant's apartment. A submeter measures each unit's individual energy consumption. The landlord will no longer pay the total cost of electricity used in the building and will no longer include that cost in the rent. Instead, the landlord of a submetered building will bill tenants each month for the electricity they use.

Alternatives to Submetering

If your building is not submetered, then you either receive your electricity from your landlord and it's included in your rent, or you get your apartment through direct metering.

- Direct metering – Direct metered tenants have individual accounts with a utility (such as Con Edison) and purchase their utility, at a residential rate, directly from the utility or an energy service provider.
- Master-metering – Master-metered tenants receive electricity from their landlords but aren't billed for it. In this case, electricity is delivered to the master meter in tenants' buildings and distributed to their apartments by building management. Landlords will pay the total cost of the energy used in the building themselves. The cost of individual tenants' electricity is included in the rent. This is the type of tenant whose building may be at risk for submetering.

Costs of Submetering

Submetered tenants will receive a monthly bill for electricity either from the landlord or from a submetering company. The bill should show the number of kilowatt hours of electricity used and the cost of that electricity. There is also a \$4.00 per month service charge added to the bill, which helps reimburse the landlord of the administrative costs associated with submetering, such as meter reading and billing.



The New York Public Service Commission (PSC) puts a “rate cap” on the amount landlords can charge tenants for their electricity. Tenants may not be billed more per month (including service charges and late fees) than they would be paying if they were direct metered customers of the utility serving in their area. However, the Public Utility Law Project of New York (PULP) reports that this rate cap may not be very effective. Tenants have no way to determine what they would pay if they were directly metered, since the PSC does not require landlords to inform tenants what they would be charged for electricity by the utility. To the best of PULP’s knowledge, no decision has ever been issued by the PSC that a submetered tenant’s bill was incorrect.

How Does a Building Become Submetered?

In order to submeter a building, the landlord must get PSC approval. In rent regulated buildings, landlords also must get approval from the New York State Division of Housing and Community Renewal (DHCR). Landlords must file a petition to review with the PSC and inform their tenants that they are seeking approval to submeter. Then, there is a comment period, in which tenants can – and SHOULD – send letters or phone calls to the PSC to explain why the building should not be submetered. For more information about this, see the “How Can I Stop My Building from Becoming Submetered?” section, below.

Submetering and Energy Efficiency

If submetered tenants live in apartments that are energy inefficient, they will generally pay more for electricity than tenants in energy efficient apartments. Landlords who submeter their electricity have little incentive to improve their building’s energy efficiency by insulating, replacing windows, installing energy efficient air conditioners, etc. because their tenants are the ones paying for electricity. The PSC does not require landlords to certify that their building is energy efficient before they are approved for submetering. However, during the comment period, tenants may protest a landlord’s submetering application on the grounds that the building is energy inefficient. For more information about this, see the “How Can I Stop My Building from Becoming Submetered?” section, below.

How Can I Stop My Building from Becoming Submetered?

Submetering costs can place a financial burden on tenants. Fortunately, it is possible for tenants to prevent their landlord from submetering their apartment. The best time to do this is during the PSC’s comment period, during which tenants can contact the PSC by mail or phone with questions or concerns about their landlord’s plan to submeter. If tenants contact the PSC with legitimate complaints, the PSC might reject the landlord’s application to submeter the apartment.



Guidelines for Contesting an Application to Submeter

- Act immediately. The comment period is generally the only time when tenants can protest their landlord's intention to submeter. After the PSC approves a landlord's application to submeter, there is little tenants can do to have that decision reversed. As soon as you receive notice that your landlord is applying to submeter the apartment, you should contact the PSC with your complaints.
- Send concrete information. Just telling the PSC that you don't want your building to be submetered is insufficient. You should provide a reason(s) why the submetering is unfair.
- Consider energy efficiency. One common justification for challenging a landlord's attempt to submeter is that the building is not energy efficient. Check out the energy efficiency of your apartment. If appliances, such as air conditioners are several years old, it is likely that they are not energy efficient. Your apartment may also have poor insulation, or old or broken windows might let in air from outside. Looking for examples of energy inefficiency in your apartment and reporting them to the PSC is one way you can challenge the submetering application.
- Read your landlord's application carefully. If you are an unregulated tenant, your landlord may include in the application to submeter a provision which states that utility costs will be treated as added rent. Those landlords who treat utility costs as added rent argue that they don't have to comply with rights guaranteed to submetered tenants under HEFPA. This means that if you complain about your energy costs, you may be taken to housing court (for more information about this, see the "What Are My Rights as A Submetered Tenant?" section). If the application says that disputes about energy costs will be resolved in housing court, you should complain to the PSC about this. In general, you should read the submetering application carefully, looking for clauses that infringe upon your rights.
- Contact your Tenant Association. The more people who call the PSC in response to your landlord's attempt to submeter, the better. If your building has a Tenant Association (TA), work with the TA to encourage other tenants in the building to challenge the submetering application. Even if your building does not have a TA, talk to your neighbors and ask them to call the PSC.
- Get officials involved. Contact your city councilperson, state representative, or other local leaders about the submetering application. Make your case to them for why the submetering should not happen, and ask them to contact the PSC in opposition to submetering in your building.



What if My Building is Already Submetered?

Once the PSC approves a landlord's application to submeter, the PSC's decision is final. Although tenants cannot get the submetering decision reversed, you can take action ensure that your energy is provided to you in accordance with submetering laws.

What are My Rights as a Submetered Tenant?

Submetered tenants are protected by the New York State Home Energy Fair Practices Act (HEFPA), which is a utility service "bill of rights." A landlord who submeters electricity is considered a utility under HEFPA, and is obligated to grant tenants the rights and protections guaranteed by HEFPA.

Under HEFPA, a submetered tenant is entitled to:

- Complain to the landlord about the electric service
- Have complaints about service promptly investigated by the landlord
- Not have electric service terminated for nonpayment while a complaint is pending, provided that the tenant pays the undisputed portions of the bill(s).
- File a complaint with the PSC whenever the tenant believes the landlord has not satisfactorily resolved the matter. However, the PSC will not accept complaints if the tenant has not first attempted resolution with the landlord.

Tenants may complain to the landlord if their electric service isn't being delivered properly or if they are being charged excessively for their electricity. The New York Public Service Commission (PSC) puts a "rate cap" on the amount landlords can charge tenants for their electricity. Tenants may not be billed more per month (including service charges and late fees) than they would be paying if they were direct metered customers of the utility serving in their area (for more information, see the "Costs of Submetering" section above).

Unfortunately, the PSC sometimes permits landlords to infringe upon tenants' HEFPA rights. For unregulated tenants, landlords may treat utility costs as added rent, if the lease permits this. Those landlords who treat utility costs as added rent argue that they don't have to comply with rights guaranteed to submetered tenants under HEFPA. If utility costs are part of the rent, then tenant complaint about utility costs will be taken to housing court, so tenants lose their right to complain to the PSC. Another concern is that if utility costs are part of the rent, landlords may try to evict tenants for nonpayment if they withhold the utility costs that you are contesting. Complaining to your landlord about utility costs and taking your complaint to housing court can still be effective in this situation, but you should be careful when withholding utility costs from your landlord.



How Do I Complain to the PSC?

You can file a complaint with the PSC online, by phone, or by mail.

Online

Visit the PSC's website at

"Residential Electric Submetering Complaint Form"
and click on the in-text link called "on-line complaint form."

By Phone

Depending on your specific complaint, call:

- Helpline (general complaints and inquiries): 1-800-342-3377 (8:30 am - 4:00 pm)
- Competitive Energy Hotline (complaints about Energy Service Companies):
1-888-697-7728 (8:30 am - 4:00 pm)
- Hotline for terminations of gas or electric service: 1-800-342-3355 (7:30 am - 7:30pm)

By Mail

Send your complaint to:

Office of Consumer Services

NYS Department of Public Service

3 Empire State Plaza

Albany, NY 12223



What if I'm a Rent Regulated Tenant?

If you're a rent regulated tenant and your building is submetered, your landlord is required by the New York State Division of Housing & Community Renewal (DHCR) to reduce your monthly rent by a certain amount, based on the number of rooms in your apartment. The current rent reduction schedule for submetering issued by the DHCR is:

Number of Rooms	Rent Reduction Due to Submetering
1 Room	\$30.81
2 Rooms	\$30.81
3 Rooms	\$35.27
4 Rooms	\$39.59
5 Rooms	\$44.06
6 Rooms	\$48.38
Over 6 rooms add	\$4.39 per room

If your building has been submetered and you did not receive the appropriate rent reduction, you can file an overcharge complaint with the New York State Division of Housing and Community Renewal (DHCR). For more information about this, contact Tenants & Neighbors or the DHCR (see contact information below).

Where Can I Get Help Paying for My Electricity?

If you are a low-income tenant who meets certain income eligibility requirements, you can participate in the Home Energy Assistance Program (HEAP). HEAP is a federally funded program that issues heating benefits to supplement a household's annual energy costs.

For more information, call the NYS HEAP Hotline at 1-800-342-3009 or go to

<http://www.otda.state.ny.us/main/heap/> .



Contact PSC (Public Service Commission)

Helpline (general complaints and inquiries): 1-800-342-3377 (8:30 am - 4:00 pm)

Competitive Energy Hotline: 1-888-697-7728 (8:30 am - 4:00 pm)

Hotline for terminations of gas or electric service: 1-800-342-3355 (7:30 am - 7:30pm)

Website: <http://www.dps.state.ny.us/index.html>

Contact DHCR (Division of Housing and Community Renewal)

Main helpline: 1-866-ASK-DHCR

All rent information: 718-739-6400 / RentInfo@nysdhcr.gov / www.dhcr.state.ny.us

All rent and repair information: 718-739-6400 / RentInfo@nysdhcr.gov / www.dhcr.state.ny.us

Housing Court

Bronx Office: 1118 Grand Concourse, Bronx, NY 10456 / (646) 386-5500

Brooklyn Office: 141 Livingston Street, Brooklyn, NY 11201 / (646) 386-5700

Upper Manhattan Office: 170 East 121st Street, New York, NY 10035 / (646) 386-5750

Lower Manhattan Office: 111 Centre Street, New York, NY 10013 / (646) 386-5700

Queens Office: 89-17 Sutphin Boulevard, Jamaica, New York 11435 / (646) 386-5700

The Legal Aid Society

Bronx: 718-681-8712 **Brooklyn:** 718-991-4758 **Manhattan:** 212-766-2450

Queens: 718-739-6272 **Staten Island:** 718-273-6677

Please note that The Legal Aid Society represents tenants who are income eligible for their services



Take Action! Organize for Affordable Housing!

Tenants across the state are fighting for their rights. Contact Tenants & Neighbors to learn how to get involved:
(212) 608 4320 / www.tandn.org / 255 West 36th Street, Suite 505 New York NY 10018

Find your New York
State Elected Officials
by scanning the QR code
with you camera

