

Effective Date: 07/21/2016

PSC No: 16 - Gas
Rochester Gas and Electric Corporation
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Superseding Revision: 1

GENERAL INFORMATION

10. GENERAL RETAIL ACCESS (Cont'd)

3. Force Majeure:

The Company and the ESCO/DC shall use due diligence in performing their obligations under this Tariff. Neither party shall be liable to the other in damages for any act, omission, occurrence, failure or delay of performance, damage, loss, injury or expense caused by any act of God, strike, lockout, act of the public enemy, act of terror, insurrection, civil unrest, war, blockade, riot, epidemic, landslide, lightning, earthquake, fire, volcanic activity, storm, flood, washout, explosion, accidental damage to or destruction of transmission or distribution facilities, equipment or machinery, or the seizure or appropriation of facilities or electricity or gas by any governmental authority of competent jurisdiction or any other binding order of any court or public authority that the party has resisted by all reasonable legal means, or any other cause not reasonably within the control of the party asserting force majeure, and which such party is unable by the exercise of due diligence to avoid, prevent or overcome. A party's failure to avert or to settle a strike or other labor dispute shall not be deemed, within the meaning of this Rule, a matter reasonably within that party's control. Financial loss or other economic hardship shall in no event constitute force majeure hereunder.

Such causes or contingencies affecting the performance hereunder by the Company, the Marketer or the customer, however, shall not relieve either party of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve customer or their Marketer from its obligations to make payments of amounts then due hereunder.

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