THEFT OF SERVICES
(A Misdemeanor)
(Tampering With Meter)
Penal Law § 165.15(6)
(Committed on or after Nov. 1, 1992)

The (*specify*) count is Theft of Services.

Under our law, a person is guilty of Theft of Services when, with intent to avoid payment by himself or herself [*or* another person] for a prospective [*or* already rendered] service, the charge or compensation for which is measured by a meter [*or* (other) mechanical device], that person tampers with such device or with other equipment related thereto [*or* in any manner attempts to prevent the meter or device from performing its measuring function], without the consent of the supplier of the service.

The following terms used in that definition have a special meaning:

INTENT means conscious objective or purpose.[1] Thus, a person acts with intent to avoid payment for a service when that person's conscious objective or purpose is to avoid payment for such service.

A person TAMPERS with a device or equipment when he or she improperly alters or interferes with such device or equipment.[2]

Under our law, a person who tampers with a meter or other measuring equipment without the consent of the supplier of the service is presumed to do so with intent to avoid [*or* to enable

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[1] *See* Penal Law § 15.05(1).

[2] *See* Black's Law Dictionary (6th Ed. 1990).

another to avoid] payment for the service involved.[3] This means that, if the People have proven beyond a reasonable doubt that the defendant tampered with a meter or related equipment without the supplier's consent, then you may, but you are not required to, infer from that fact that the defendant did so with the intent to avoid payment [*or* to enable another to avoid payment] for the service involved.

Under our law, proof that a meter or related equipment has been tampered with [*or* otherwise intentionally prevented from performing its measuring function] without the consent of the supplier of the service is presumptive evidence that the person being furnished the service through such meter or related equipment created [*or* caused to be created] the disruption in the equipment's functioning with the intent to avoid payment by himself or herself [*or* another person] for a prospective [*or* already rendered] service.[4] This means that, if the People have proven beyond a reasonable doubt that a meter or related equipment was tampered with [*or* otherwise intentionally prevented from performing its measuring function] without the consent of the supplier of the service, and that the defendant was the person being furnished the service through such meter or related equipment, you may, but you are not required to, infer from those facts that the defendant created [*or* caused to be created] the disruption in the equipment's functioning with the intent to avoid payment by himself/herself [*or* another person] for a prospective [*or* already rendered] service.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about *(date)*, in the county of *(county)*, the defendant, *(defendant's name)*, tampered with a meter

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[3] *See* Penal Law § 165.15(6).

[4] *See* Penal Law § 165.15(6).

[*or* mechanical device] used to measure the charge or compensation for a service or with other equipment related thereto [*or* in any manner attempted to prevent the meter or device from performing its measuring function], without the consent of the supplier of the service; and

2. That the defendant did so with the intent to avoid payment by himself/herself [*or* another person] for a prospective [*or* already received] service, the charge or compensation for which was measured by such meter [*or* mechanical device].

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.