

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS**

<p>NELLY CALLE, on behalf of herself and all others similarly situated,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>NATIONAL GRID USA SERVICE COMPANY, INC.,</p> <p style="text-align: right;">Defendant.</p>
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Index No.:

**SUMMONS**

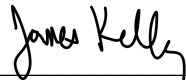
Venue: Queens County  
The basis of venue is the  
location of Plaintiff's residence.

Plaintiff designates Queens County as the place of trial; the basis of the venue is Plaintiff's residence, which is located in Queens, New York.

To the above named Defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer at the address listed below within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: July 11, 2022




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*Co-counsel for plaintiff  
and the proposed class*

**SUPREME COURT OF THE STATE OF NEW YORK  
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Index No.:

**Class Action Complaint**

Venue: Queens County  
The basis of venue is the  
location of Plaintiff's residence.

Plaintiff Nelly Calle ("Plaintiff"), by and through her undersigned counsel, upon personal knowledge as to herself and upon information and belief as to all other matters, allege as follows:

1. Plaintiff brings this class action against defendant National Grid USA Service Company, Inc., ("National Grid" or "Defendant" or "Company"), on behalf of herself and all other similarly situated individuals and entities located in the state of New York who were charged a fine by National Grid for allegedly failing to timely schedule an inspection of a gas meter.

**FACTUAL ALLEGATIONS**

2. This is a class action against National Grid for unfair and deceptive trade practices.

3. National Grid provides New York, Rhode Island and Massachusetts with natural gas and electricity for homes and businesses.

4. In, or around October 2021, National Grid debited \$100 from Plaintiff's account for allegedly failing to timely schedule an inspection of a National Grid gas meter.

5. Plaintiff is only a tenant in the multi-family property where the National Grid gas meter at issue is located.

6. Upon information and belief, National Grid charged and misappropriated said \$100 from Plaintiff's account because she happened to have autopay with National Grid.

7. Plaintiff never authorized National Grid to debit her account for the alleged \$100 fine.

8. Further, the gas meter at issue is not located in Plaintiff's apartment but is located in the basement of her building and she does not have access to said basement.

9. In, or around, November 2021, National Grid promised to refund Plaintiff the \$100 fine but never refunded her any money.

10. Plaintiff's counsel has discovered that thousands of other National Grid customers may have been improperly charged fines by National Grid for allegedly failing to timely schedule an inspection of a gas meter.

11. For example, the Olean Time Herald issued a media report on March 23, 2022, stating in part:

Dr. Michael Fitzgerald, a retired 87-year-old physician from Skaneateles, said the \$100 surcharge caught his eye last summer because his heating system is mostly electric and his gas bill seldom exceeds \$40. When his wife called National Grid, she was told that Recon inspectors had tried "numerous times" to gain access to their home and had left notices on the front door.

Fitzgerald said they never got any notices. More importantly, their gas meter is outside the house. There was no need for an inspector to come inside. National Grid rescinded the fine.

See [https://www.oleantimesherald.com/news/national-grid-fines-thousands-of-upstate-customers-100-for-their-own-safety/article\\_6a77d0e4-1945-5d6c-9b75-b36d7cee935c.html](https://www.oleantimesherald.com/news/national-grid-fines-thousands-of-upstate-customers-100-for-their-own-safety/article_6a77d0e4-1945-5d6c-9b75-b36d7cee935c.html)

12. Several National Grid customers posted complaints online on the Better Business Bureau website [bbb.org](http://bbb.org). See <https://www.bbb.org/us/ma/north-waltham/profile/electric-companies/national-grid-usa-0021-60846/complaints>.

13. One such complaint, posted on the Better Business Bureau website on 11/2/2021, stated:

“I received a letter from National Grid (NG) dated Sept. 17,2021 stating that if I didn't allow a gas line inspection in my home I'd receive a \$100 penalty to my NG bill. I called their third party inspection company \*\*\*\*\* and a man inspected my home on Thursday, Oct. 7th at 8am. A week later I received my NG bill and an enclosed letter informed me I was being billed the \$100 fee for non access. Ng and \*\*\*\*\* have both denied responsibility for the penalty charge. I paid my bill minus the \$104+ "disputed amount". Please help me resolve this issue. Can they legally do this crap?????????”

14. Another customer posted a complaint on the Better Business Bureau website on 10/07/2021, stating:

“I received a \$100 fine from National Grid for not allowing access for gas inspection. I then called National Grid and was told the fine would be removed once Precision Pipeline Solutions completed the examination of the gasline. I am a disabled woman living in Supported Housing. My landlady Deon Newman completed the inspection on August 31 2021. I have reached out five times to National Grid to remove this charge as only they can remove it, not Precision Pipeline Solutions. Now National Grid is calling me with recorded messages demanding payment of the \$100 dollars. My account number is \*\*\*\*\*. I would like this fine removed from my bill and I don't want my gas shut off.”

15. The following complaint was posted on [bbb.org](http://bbb.org) on 10/05/2021:

“National Grid charged me \$100 for not letting them into my basement to read my meters. They also charged my new tenant \$100 when they weren't even in the apartment when they were supposedly trying to gain access. i have been in contact with them multiple times to resolve the issue but they were unwilling to refund me. I was working remotely (from home) from

April 2020 until July 2021. During this time I was home every day. I never had a knock on my front door. They claim they made multiple attempts but cannot verify I refused to answer. Something is not adding up. National Grid says they can't issue a refund because it's \*\*\*\*\*'s responsibility but \*\*\*\*\* told me i would have to reach out to National Grid. Back and forth multiple times via phone calls and in the attached email. i have no recourse to solve the issue."

16. A customer named Philip S., posted a review on the Better Business Bureau website on 9/3/2021, stating:

"National Grid Electric and \*\*\*\*\* is abusive to its customers in the way they operate. They make communication impossible through long hold times and disconnections if you make it through the extended hold period. I sent a FB messenger inquiry about how to get a gas inspection because I was sent an email threatening me with a \$100 fine and a disconnection of my gas service if I didnt have an inspection and I couldnt reach them by phone to schedule one. They sent a message with an alternative phone number. Again a was put on hold for over 15 minutes. This time the phone number was for the wrong region. They couldnt help me snd could transfer me or give me the correct phone number. Im at my wits end. I dont know how to schedule an inspection if I cant get through snd my service will be terminated and I will be fined if I dont have my gas line inspected. Its abusive. Theyre a monopoly. There is no alternative for me. This company should be fined abusing their customers."

See <https://www.bbb.org/us/ma/north-waltham/profile/electric-companies/national-grid-usa-0021-60846/customer-reviews>

17. On 8/25/2021, another customer named Leslie, posted the following review on the bbb.org website stating:

"This is a corporate nightmare. With the covid virus looming and being in a high risk group as an older American it was agreed by a third party gas line inspector at [Recon] that I postpone my appointment to stay safe. National Grid posted a \$100 fine on my account because of the delay in the inspection. The inspection was done a month and a half ago and now no one is returning my calls or crediting my account for the false charge. Recon says its National Grid's responsibility and Grid says it's Recon's. Meanwhile, I do not have the extra money to throw away and I am getting robo calls that my service could be suspended. The state should step in and find a new group to run National Grid."

18. A National Grid customer posted the following question on reddit in the r/Brooklyn community: “Got charged a \$100 fine because National Grid couldn’t access our gas meter, but only the landlord has access to be basement. Has anyone dealt with this before?”

[https://www.reddit.com/r/Brooklyn/comments/qewebd/got\\_charged\\_a\\_100\\_fine\\_because\\_national\\_grid/](https://www.reddit.com/r/Brooklyn/comments/qewebd/got_charged_a_100_fine_because_national_grid/).

19. Plaintiffs, on behalf of themselves and all others similarly-situated, seek: 1) monetary damages fully compensating all individuals and entities for all fines charged to customers for allegedly failing to timely schedule an appointment to inspect a gas meter; 2) injunctive relief requiring National Grid to stop issuing fines for the allegedly failure to timely schedule an inspection of a gas meter; 3) attorney’s fees and costs for the prosecution of this action; and 4) such other relief as the Court deems necessary and appropriate.

20. If National Grid refunds and/or credits Plaintiff’s account now or in the future, in an attempt to “pick-off” plaintiff’s standing as a potential representative of the proposed Class (defined below), she rejects any such refund or credit and will hold any such refund or credit in her account until further order from the Court.

### **THE PARTIES**

21. Plaintiff Nelly Calle is a resident of Queens, New York.

22. Defendant National Grid USA Service Company, Inc., is a Massachusetts corporation with its principal executive office located at 40 Sylvan Road, Waltham, Massachusetts 02451.

23. Whenever, in this Complaint, reference is made to any act, deed, or conduct of National Grid, the allegation means that National Grid engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees or representatives who was actively engaged in the management, direction, control or transaction of the ordinary business and affairs of National Grid.

### **JURISDICTION AND VENUE**

24. This Court has jurisdiction over this action. Plaintiff is a resident of Queens County, and Defendant is a citizen of the State of Massachusetts and sells services and products in Queens, New York, including the gas at issue herein. The matter in controversy exceeds the sum or value of \$100,000, exclusive of interest and costs, and this is a class action in which the number of members of the proposed class is not less than 100.

25. Venue is proper in the State of New York, Queens County. A substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this county. Also, Defendant has used the laws within, and has done substantial business in this county in that it has promoted, marketed, distributed, and sold the services and products at issue in this county. Finally, there is personal jurisdiction over Defendant in this county.

### **CLASS ACTION ALLEGATIONS**

26. Plaintiff brings this action pursuant to Article 9 of the New York Civil Practice Law & Rules ("C.P.L.R.") on behalf of the following class:

All persons or entities that reside in New York and were charged a fine by National Grid, for the alleged failure to timely schedule an inspection of a gas meter, at any time from July 5, 2019, through the date of the final disposition of this action (the "Class").

27. Plaintiff reserves the right to amend the definition of the Class if discovery and further investigation reveals that the class should be expanded or otherwise modified.



28. Plaintiff reserves the right to establish additional sub-classes as appropriate.

29. This action is brought and may be properly maintained as a class action under the provisions of Article 9 of the C.P.L.R., and satisfies the requirements thereof.

30. There is a well-defined community of interest among members of the Class, and the disposition of the claims of each member of the Class in a single action will provide substantial benefits to all parties and to the Court.

31. The members of the Class are so numerous that joinder of all members of the class is impracticable. At this time, Plaintiff believes that the Class includes thousands of members. Therefore, the Class is sufficiently numerous that joinder of all members of the Class in a single action is impracticable, and the resolution of their claims through the procedure of a class action will be of benefit to the parties and the Court.

32. Plaintiff's claims are typical of the claims of the members of the Class whom they seek to represent because Plaintiff and each member of the Class have been subjected to the same improper practices by Defendant and have been damaged in the same manner.

33. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has no interests that are adverse to those of the members of the Class that she seeks to represent. Plaintiff is committed to the vigorous prosecution of this action and, to that end, Plaintiff has retained counsel that is competent and experienced in handling complex class action litigation on behalf of consumers.

34. A class action is superior to all other available methods of the fair and efficient adjudication of the claims asserted in this Complaint under Article 9 of the C.P.L.R. because:

- a) The expense and burden of individual litigation would not be economically feasible for members of the Class to seek to redress their claims other than through the procedure of a class action.
- b) If separate actions were brought by individual members of the Class, the resulting multiplicity of lawsuits would cause members to seek to redress their claims other than through the procedure of a class action; and
- c) Absent a class action, Defendant likely would retain the benefits of its wrongdoing, and there would be a failure of justice.

35. Common questions of law and fact exist as to the members of each class predominate over any questions that affect individual members of the Class.

36. The common questions of fact include, but are not limited to, the following:

- a) Whether the statewide practice by Defendant of charging a customer a fine when a customer is not at fault is improper and in violation of state consumer protections laws;
- b) Whether Defendant engaged in unlawful, unfair, misleading, or deceptive business acts or practices;
- c) Whether Defendant engaged in consumer fraud, deceptive trade practices, or other unlawful acts;
- d) Whether Defendant was unjustly enriched; and
- e) Whether Plaintiff and members of the Class are entitled to an award of reasonable attorneys' fees, pre-judgment interest, and costs of this suit.

37. In the alternative, this action is certifiable under the provisions of Article 9 of the C.P.L.R. because Defendant has acted or refused to act on grounds generally

applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole and necessitating that any such relief be extended to members of each class on a mandatory, class-wide basis.

38. Plaintiff is not aware of any difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

**COUNT I**  
**Violation of New York Deceptive Acts and Practices Act**  
**N.Y. Gen. Bus. Law § 349**

39. Plaintiff incorporates by reference the allegations in every paragraph in this complaint.

40. Plaintiff brings this claim on her own behalf and on behalf of: (a) all other persons or entities that reside in New York and were charged a fine by National Grid, for the alleged failure to timely schedule an inspection of a gas meter, at any time from July 5, 2019, through the date of the final disposition of this action.

41. Plaintiff and each member of the Class is a consumer, purchaser or other person entitled to the protection of the consumer protection laws of New York State.

42. New York has enacted the New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349, designed to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising.

43. The gas sold by Defendant constitutes services to which N.Y. Gen. Bus. Law § 349 applies.

44. National Grid violated N.Y. Gen. Bus. Law § 349 by unfairly charging customers fines.

45. Plaintiff and the members of the Class have suffered damages in an amount to be determined at trial.

46. The damages that Plaintiff and the members of the Class suffered includes loss of the use of the funds misappropriated by Defendant, including lost interest revenue.

47. Plaintiff also requests that the Court enjoin Defendant from unfairly charging customers fines pursuant to GBL § 349(h).

**COUNT II**  
**Unjust Enrichment**

48. Plaintiff incorporates by reference the allegations in every paragraph of this complaint.

49. By its wrongful acts and omissions, Defendant has been unjustly enriched at the expense of Plaintiff and each member of the Class, and thus Plaintiff and each member of the Class were unjustly deprived of time and value of money provided to Defendant.

50. It would be inequitable and unconscionable for Defendant to retain the profit, benefit, and other compensation it obtained from its deceptive, misleading, unfair and unlawful conduct alleged herein.

51. Plaintiff and each member of the Class seek restitution from Defendant, and seek an order of this Court disgorging all profits, benefits, and other compensation obtained by Defendant from its wrongful conduct.

**RELIEF REQUESTED**

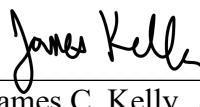
Accordingly, Plaintiff, on behalf of herself and the members of the Class, seek judgment as follows:

1. Certifying the Class as requested herein, certifying Plaintiff as the representative of the Class, and appointing Plaintiff's co-counsel as counsel for the Class;
2. Ordering that Defendant is financially responsible for notifying each member of the Class of the allegations set forth herein;
3. Awarding Plaintiff and each member of the Class compensatory damages in an amount according to proof at trial;
4. Awarding restitution and disgorgement of Defendant's revenues to Plaintiff and the Class;
5. Awarding declaratory and injunctive relief, including enjoining Defendant from continuing the unlawful practices as set forth herein, and directing Defendant to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all monies acquired by Defendant by means of any act or practice declared by this Court to be wrongful or unlawful;
6. Ordering Defendant to stop unfairly issuing fines to National Grid customers;
7. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action;
8. Awarding attorneys' fees, expenses, and recoverable costs reasonably incurred in connection with the commencement and prosecution of this action; and
9. Directing such other and further relief as the Court deems just and proper.

**REQUEST FOR JURY TRIAL**

Plaintiff and the Class respectfully request a trial by jury as to all matters so triable.

Dated: July 11, 2022



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and the proposed class*