

CHAPTER 3

ALL UTILITIES

Authority

N.J.S.A. 48:2-13; 48:2-16, 16.1 through 16.4, 17, 20, 23, 24, 25, and 27; 48:3-2.3, 3, 4, and 7.8; and 48:19-17.

Source and Effective Date

Effective: February 11, 2015.
See: 47 N.J.R. 661(a).

Chapter Expiration Date

Chapter 3, All Utilities, expires on February 11, 2022.

Chapter Historical Note

All provisions of Chapter 3, All Utilities, became effective prior to September 1, 1969.

1971 Revisions: Subchapter 10, Solid Waste Collection and Solid Waste Disposal, became effective July 8, 1971 as R.1971 d.109. See: 2 N.J.R. 76(f), 3 N.J.R. 160(a).

1973 Revisions: Amendments became effective June 19, 1973 as R.1973 d.157. See: 5 N.J.R. 123(b), 5 N.J.R. 240(a). Further amendments became effective July 11, 1973 as R.1973 d.187. See: 4 N.J.R. 196(e), 5 N.J.R. 292(b).

1975 Revisions: Amendments became effective October 17, 1975 as R.1975 d.305. See: 7 N.J.R. 277(b), 7 N.J.R. 510(b).

1978 Revisions: Amendments became effective May 16, 1978 as R.1978 d.155. See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).

1979 Revisions: Amendments became effective March 16, 1979 as R.1979 d.117. See: 11 N.J.R. 260(a). Further amendments became effective August 1, 1979 as R.1979 d.289. See: 11 N.J.R. 258(b), 11 N.J.R. 467(a). Further amendments became effective October 10, 1979 as R.1979 d.352. See: 11 N.J.R. 522(c).

1980 Revisions: Amendments became effective January 1, 1980 as R.1980 d.474. See: 11 N.J.R. 402(b), 12 N.J.R. 49(b). Further amendments became effective January 24, 1980 as R.1980 d.44. See: 12 N.J.R. 156(d). Further amendments became effective July 1, 1980 as R.1980 d.299. See: 12 N.J.R. 209(f), 12 N.J.R. 495(d). Further amendments became effective December 29, 1980 as R.1980 d.555. See: 12 N.J.R. 552(a), 13 N.J.R. 105(b).

1983 Revisions: Amendments became effective November 21, 1983 as R.1983 d.526. See: 15 N.J.R. 787(a), 15 N.J.R. 1949(a).

1984 Revisions: Amendments became effective February 6, 1984 as R.1983 d.651. See: 15 N.J.R. 1235(a), 16 N.J.R. 250(a). Further amendments became effective April 2, 1984 as R.1984 d.87. See: 15 N.J.R. 1355(a), 16 N.J.R. 744(a). Subchapter 3, Service, and Subchapter 7, Bills and Payments for Service, were readopted effective July 2, 1984 as R.1984 d.259. See: 16 N.J.R. 693(a), 16 N.J.R. 1807(a).

1985 Revisions: Amendments became effective April 15, 1985 as R.1985 d.166. See: 16 N.J.R. 2747(a), 17 N.J.R. 974(a). Further amendments became effective May 6, 1985 as R.1985 d.202. See: 17 N.J.R. 174(a), 17 N.J.R. 1136(a).

1986 Revisions: Amendments became effective July 7, 1986 as R.1986 d.242. See: 18 N.J.R. 463(a), 18 N.J.R. 1401(a).

1987 Revisions: Amendments became effective April 6, 1987 as R.1987 d.163. See: 18 N.J.R. 2425(a), 19 N.J.R. 552(a). N.J.A.C. 14:3-7.12A became effective December 21, 1987 as R.1987 d.516. See: 18 N.J.R. 2315(a), 19 N.J.R. 2405(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, All Utilities, expired on May 6, 1990. Chapter 3, All Utilities, was subsequently adopted as new rules by R.1991 d.221, effective May 6, 1991. See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

1993 Revisions: Subchapter 11, Solid Waste Collection Regulatory Reform, was adopted as R.1993 d.83, effective February 16, 1993. See: 24 N.J.R. 1459(a), 25 N.J.R. 692(a).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Solid Waste Collection and Solid Waste Disposal, and Subchapter 11, Solid Waste Collection Regulatory Reform, were readopted as R.1996 d.253, effective May 6, 1996. As part of R.1996 d.253, Subchapters 10 and 11 were recodified to N.J.A.C. 7:26H-1 and 7:26H-5, respectively, effective June 3, 1996. See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a). The remainder of Chapter 3, All Utilities, consisting of Subchapter 1, Definitions; Subchapter 2, Plant; Subchapter 3, Service; Subchapter 4, Meters; Subchapter 5, Offices; Subchapter 6, Records; Subchapter 7, Bills and Payments for Service; Subchapter 8, Suggested Formulae for Extension of Utility Service; and Subchapter 9, General Provisions, expired on May 6, 1996.

Chapter 3, All Utilities, consisting of Subchapters 1 through 9 and 12, was adopted as new rules by R.1997 d.39, effective February 3, 1997. See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Subchapter 13, Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Sewerage Treatment Adjustment Clauses, was adopted as R.1997 d.351, effective September 2, 1997. See: 28 N.J.R. 4079(a), 29 N.J.R. 3845(a).

Chapter 3, All Utilities, was readopted as R.2002 d.280, effective July 31, 2002. See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

Subchapter 8, Suggested Formulae for Extension of Utility Service, was repealed and Subchapter 8, Extensions to Provide Regulated Services, was adopted as new rules, and Subchapter 10, Targeted Revitalization Incentive Program (TRIP), was adopted as new rules by R.2004 d.462, effective December 20, 2004 (operative March 20, 2005). See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

Subchapter 13, Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Sewerage Treatment Adjustment Clauses, was renamed Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Wastewater Treatment Adjustment Clauses by R.2006 d.367, effective October 16, 2006. See: 38 N.J.R. 1538(a), 38 N.J.R. 4490(b).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 3, All Utilities, was extended by gubernatorial directive from January 27, 2008 to April 27, 2008. See: 40 N.J.R. 887(a).

Chapter 3, All Utilities, was readopted as R.2008 d.119, effective April 10, 2008. As part of R.2008 d.119, Subchapter 1, Definitions, was renamed General Provisions; Subchapter 3A, Discontinuance and Restoration of Service, was added as new rules; Subchapter 5, Offices, was renamed Contacting the Utility; Subchapter 6, Records, was renamed Records and Reporting; Subchapter 9, General Provisions, was repealed; and Subchapter 13, Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Wastewater Treatment Adjustment Clauses, was renamed Interest on Over or Under Recovered Cost Balances Under Adjustment Clauses, effective May 19, 2008. See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, All Utilities, was scheduled to expire on April 10, 2015. See: 43 N.J.R. 1203(a).

Chapter 3, All Utilities, was readopted, effective February 11, 2015. See: Source and Effective Date.

Subchapter 10, Targeted Revitalization Incentive Program (TRIP), was repealed by R.2015 d.198, effective December 21, 2015. See: 46 N.J.R. 2323(a), 47 N.J.R. 3133(c).

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(i) All street lighting in a development with underground electric service shall also be served underground.

(j) When the requirement that an extension be located underground will result in hardship, inequity, or will be discriminatory to other affected parties, the regulated entity or applicant may request from the Board a special exemption, or approval of special conditions. The Board may require that the requesting party submit, as part of such a request, documentation that the requesting party has deposited in an escrow account an amount up to the estimated difference in cost between underground and overhead service.

(k) Where affected regulated entities determine that it is practical, electric cables, communication cables, and cable television cables shall be installed in the same trench, if this can be done consistent with all applicable codes and regulations, and in particular those pertaining to safety.

(l) When an extension is installed underground, certain components may be installed above ground if necessary for safety or to provide reasonable access for maintenance. Examples are interconnecting points and pedestals, and electric transformers.

Repealed by R.2004 d.462, effective December 20, 2004.

See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

Section was "Requirement to put certain extensions underground".

New Rule, R.2005 d.265, effective August 15, 2005.

See: 36 N.J.R. 5655(a), 37 N.J.R. 3046(b).

Amended by R.2006 d.342, effective September 18, 2006.

See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).

In (g), rewrote last sentence.

Amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

In (b), inserted "wastewater treatment," and deleted the last sentence; in (f), recodified the second sentence as the new introductory paragraph of (g); recodified (f)1 and (f)2 as (g)1 and (g)2; in the introductory paragraph of (g), substituted "section" for "subsection" and inserted "construction" and "regardless of who actually performs the construction"; in (g)1, deleted "as defined by N.J.A.C. 14:3-8.2" following "area", inserted a comma following "amount" and substituted "and" for a period at the end; in (g)2, substituted "entity's" for "entities"; and recodified former (g) through (k) as (h) through (l).

Amended by R.2015 d.198, effective December 21, 2015.

See: 46 N.J.R. 2323(a), 47 N.J.R. 3133(c).

Rewrote (g).

14:3-8.5 General provisions regarding costs of extensions

(a) The cost that an applicant pays a regulated entity for an extension shall be determined by mutual agreement between the regulated entity and the applicant. If a regulated entity and an applicant cannot agree on the applicant's cost of an extension, a deposit, or a non-refundable contribution, either party may petition the Board to apply the suggested formula set forth at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable.

(b) Except for certain underground extensions covered by N.J.A.C. 14:3-2.1(f), an extension shall become the property of the regulated entity upon its completion. If an extension is paid for by an applicant in accordance with this chapter, a regulated entity shall include the extension in its contribution

in aid of construction (CIAC) accounts, for accounting purposes only. The regulated entity shall record such a contribution in a manner consistent with the Uniform System of Accounts, 18 CFR Part 101, which is incorporated herein by reference in this subchapter. Amounts that a regulated entity receives in accordance with this subchapter, which are not refunded to an applicant, shall be credited to the appropriate plant account or accounts.

(c) The cost of an extension for which a regulated entity receives a deposit, or receives a non-refundable contribution, shall include the tax consequences incurred by the regulated entity as a result of receiving deposits under the Tax Reform Act of 1986, in accordance with N.J.A.C. 14:3-8.6.

(d) Regulated entities, customers, applicants, developers, builders, municipal bodies, and other persons shall cooperate fully in order to facilitate construction of an extension at the lowest reasonable cost consistent with system reliability and safety. This includes sharing trenches, where practicable, allowing the applicant, where practicable, to dig the portion of the trench located on the property to be served, and coordinating scheduling and other aspects of construction to minimize delays and to avoid difficult conditions, such as frozen or unstable soils. A municipality shall not impose an ordinance or other requirement that conflicts with this subchapter or which would prevent or interfere with another person's compliance with this subchapter.

(e) Each regulated entity shall submit for Board approval a proposed tariff containing charges for services, including installation of underground service. The regulated entity shall periodically submit updated tariffs on its own initiative or as requested by the Board. A tariff shall not require an applicant for an extension to pay a deposit or non-refundable contribution that is greater than would be required under the suggested formula at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable. A tariff shall not provide for a deposit refund that is less than would be required under the suggested formula at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable.

(f) If a regulated entity requires that the applicant pay a deposit or non-refundable contribution, the regulated entity shall first provide the applicant with all of the following information, in writing:

1. A detailed estimate of the total cost of the extension, including:

- i. An itemization of the number of units of each item required to build the extension (for example, the number of feet of wire, feet of pipe, feet of conduit, feet of trench, number of transformers, number of valves, and number of labor hours);

- ii. The cost per unit for each item listed under (f)1i above, multiplied by the number of units of that item; and

- iii. The sum of all items in (f)1ii. This sum shall equal the total estimated cost of the extension;

2. The estimated annual distribution revenue offset, if any;

3. The total amount of the deposit or non-refundable contribution required; and

4. If any portion of a deposit or non-refundable contribution is taxable under Tax Reform Act of 1986 (TRA-86), and the regulated entity has decided to include the TRA-86 tax consequences in the deposit or non-refundable contribution:

- i. The total deposit before taxes;
- ii. The taxable portion of the deposit;
- iii. The gross-up factor from N.J.A.C. 14:3-8.6(c); and
- iv. The dollar amount of the tax consequences incurred on the deposit, from N.J.A.C. 14:3-8.6(d)5.

(g) A regulated entity shall construct each extension with sufficient capacity to provide safe, adequate, and proper service to customers, in accordance with N.J.A.C. 14:3-8.3(e). For example, if an applicant requests a four kilovolt extension of electric service but the regulated entity's minimum system design standard is thirteen kilovolts, the regulated entity shall construct a thirteen kilovolt extension. In such a case, the cost of the extension for purposes of this subchapter and the suggested formula shall be the full cost of the thirteen kilovolt extension, and not merely the cost of a four kilovolt extension.

(h) If a regulated entity chooses to construct an extension or portion of an extension with additional capacity over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may not require the applicant to pay for such additional capacity.

(i) The costs of any installation or construction of infrastructure, which is not governed by this subchapter, shall be governed by other applicable law.

(j) A regulated entity may base the cost of an extension, for the purpose of determining the amount of the required deposit or non-refundable contribution, on site-specific unitized costs. The regulated entity shall determine the site-specific unitized cost by:

1. Sending a qualified representative to the site;
2. Developing a work plan that includes a list of materials needed based upon the actual extension to be constructed;
3. Multiplying the quantity of each type of item on the list of materials by the cost per unit for that type of item. The cost per unit for each item listed shall reflect the material cost of that item as well as the associated labor as set forth in the definition of cost at N.J.A.C. 14:3-8.2; and
4. Adding up the results obtained under (j)3 above.

Amended by R.2006 d.342, effective September 18, 2006.

See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).

In (c), deleted "estimated" preceding "cost"; in (h), substituted "an" for "the" preceding "applicant" and inserted "in an area not designated for growth"; in (i), substituted "an extension" for "service"; and added (j).

Amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

In (b), substituted "Except for certain underground extensions covered by N.J.A.C. 14:3-2.1(f), an" for "An" at the beginning; in (f), substituted "(i)" for "(h)"; in (h), deleted the former first sentence, inserted ", in a designated growth area," substituted "but may not require the applicant to pay for such additional capacity" for the second occurrence of "or", recodified a segment of the second sentence as (i) and recodified the third sentence as (j); rewrote (i); in (j), substituted "If" for "However, if" and inserted "constructed under (h) or (i) above" and "or recoverable costs"; recodified former (i) through (l) as (k) through (n); and in (n)4, substituted "(n)3" for "(l)3".

Amended by R.2015 d.198, effective December 21, 2015.

See: 46 N.J.R. 2323(a), 47 N.J.R. 3133(c).

Rewrote the section.

14:3-8.6 Deposits, contributions, and refunds - Tax Reform Act of 1986

(a) This section applies to a regulated entity that:

1. Collects a deposit or non-refundable contribution that is taxable in whole or in part under the Tax Reform Act of 1986 (TRA-86); and

2. Includes in the deposit or non-refundable contribution the associated tax consequences incurred by the regulated entity under TRA-86.

(b) If a regulated entity includes in a deposit or non-refundable contribution the tax consequences incurred under TRA-86, all deposit refunds shall also include the associated tax consequences incurred under TRA-86. Effective January 20, 2016, these tax consequences shall be determined in accordance with this section.

(c) The TRA-86 gross-up factor shall be:

1. Designed to incorporate the impact on the regulated entity of the initial tax payment on the deposit or non-refundable contribution;

2. Designed to incorporate the impact on the regulated entity of the future tax depreciation deductions that are associated with the extension; and

3. For a gas or electric regulated entity, calculated using the TRA-86 Gross-up Factor Template posted on the Board's website, <http://www.state.nj.us/bpu>.

(d) To determine the amount of a deposit or non-refundable contribution that includes the associated tax consequences incurred under TRA-86, the regulated entity shall:

1. Determine the base amount of the deposit or non-refundable contribution, before including the tax consequences of TRA-86;

2. Determine the portion of the base deposit or non-refundable contribution that is taxable under TRA-86. This is the "taxable amount";

14:3-8.14 Refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009 to serve areas not designated for growth

(a) This section governs refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009, to serve areas not designated for growth. (I/M/O The Board's Main Extension Rules N.J.A.C. 14:3-8.1 Et Seq., Docket No. AX12070601, Dated July 19, 2013 ("July Order").)

(b) Notice to customers shall be as follows:

1. The regulated entities shall provide individual or public final notice, depending upon the specific regulated entity's ability to identify eligible applicants, and consistent with the method used by the regulated entity in complying with the I/M/O The Board's Main Extension Rules N.J.A.C. 14:3-8.1 Et Seq., Docket No. AX12070601, Dated July 19, 2013 (July Order), to notify persons or entities that paid contributions for extensions built to serve areas not designated for growth between March 20, 2005 and December 30, 2009, that they may be entitled to a refund of all, or a portion of the contribution.

2. This final notice of refunds shall be made by all regulated entities, whether by individual or public notice, by February 19, 2016.

3. Each regulated entity must designate a contact person for applicants to contact regarding refund requests.

4. Each regulated entity must post on its website, instructions and contact information for filing for refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009, to serve areas not designated for growth.

(c) The refund process is as follows:

1. Parties seeking refunds under this section must submit a written request for a refund of their contribution to the regulated entity to which they paid the contribution by no later than December 20, 2016, in order to qualify for said refund. The Board may authorize refunds for requests that are filed after this date, if the Board finds that there is good cause shown.

2. The regulated entity and the party requesting the refund must agree upon the appropriate recipient of the refund, which shall be the person, or entity, that paid the original contribution, or the appropriate successor entity as documented in (c)3 below.

3. Where necessary due to changes in control, ownership, assignment, or bankruptcy, the party requesting the

refund must provide sufficient evidence, with supporting affidavits of entitlement to the regulated entity.

4. The regulated entity and the party requesting the refund must agree upon the appropriate amount of the refund. The refund shall be equal to the amount that would have been refunded had the extension been built to serve an area designated for growth under the rules in existence at the time the contribution was paid. Under no circumstances shall a regulated entity refund an amount in excess of a contribution paid to the regulated entity for an extension. The refund amount shall not include interest.

5. The regulated entity may require the party requesting the refund to submit proof of payment of the original contribution prior to issuing the refund. For example, the party requesting the refund may be required to provide a copy of the cancelled check for the contribution, a copy of a receipt from the regulated entity, or a bank record.

6. Within 30 days of receiving a refund claim, the regulated entity shall notify the applicant in writing that they received the claim. This notification shall indicate that the regulated entity accepts the claim and deems it complete or it shall identify any deficiencies in the claim and notify the applicant that they have 60 days to correct any deficiencies in the claim. The regulated entity shall issue refund payments to the applicant within 30 days of deeming a claim to be complete.

7. If the parties cannot agree as to the amount, or appropriate recipient, of a refund, the party requesting the refund may petition the Board for an appropriate remedy pursuant to N.J.A.C. 14:1-1.5(b). Such party must prove that they are entitled to the refund and demonstrate proof of payment of the contribution. The Board will look to the refund formula for extensions in existence at the time of the extension request to determine the amount that would have been refunded if the extension were built to serve an area designated for growth.

(d) Reporting Requirements. Commencing February 19, 2016, and every 180 days thereafter until December 21, 2017, each regulated entity shall file a report with the Board Secretary and the director of the appropriate Board of Public Utilities' division (Water, Energy, or Telecommunications), providing an update on the regulated entity's refund process. Each regulated entity shall complete the below chart and include it in the report. For the "Total disputed refund requests" column, the regulated entity shall provide and identify two dollar amounts in the \$ Amount row, specifically, the total dollar amount requested by the applicants and the total dollar amount that the regulated entity believes is due to the applicants. The report shall also include a narrative describing the status of the regulated entity's refund process.

Regulated Entity Name _____

Refunds of Contributions Paid for Extensions Built From March 20, 2005 Through December 30, 2009 to Serve Areas Not Designated For Growth

Status Report, Dated _____

	A	B	C	D	E	F
	Total refunds required	Total requests for refunds	Total refunds paid to date	Total of all refunds due, but not paid (A - C)	Total refunds <u>requested</u> , but not paid (B - C)	Total disputed refund requests
Quantity (Number of refunds, requests, etc.)						
\$ Amount (Dollar amount of refunds, requests, etc.)						

New Rule, R.2015 d.198, effective December 21, 2015.
See: 46 N.J.R. 2323(a), 47 N.J.R. 3133(c).

SUBCHAPTERS 9 THROUGH 11. (RESERVED)

SUBCHAPTER 12. UTILITY MANAGEMENT AUDITS

14:3-12.1 Applicability

This subchapter shall apply to all public utilities, as defined at N.J.A.C. 14:3-1.1.

Repeal and New Rule, R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Section was "Applicability".

14:3-12.2 Initiation of audit

(a) Where the Board determines that an audit of a utility is necessary or desirable, it shall order the audit to be performed and shall establish the objective, scope, and other factors it deems pertinent to said audit.

(b) The Board may require an audit to be performed by members of its staff or by an independent management consulting firm under the supervision of members of the Board's staff.

(c) The Board may require that a written agreement, setting forth all terms and conditions of the audit, be signed by authorized representatives of the utility and the selected consulting firm.

Amended by R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Inserted designation (a); and added (b) and (c).

14:3-12.3 Results of audit

Upon completion and review of an audit, the Board's staff shall permit the utility to review its findings of said audit and

to provide written comments which shall be incorporated into the results filed with the Board.

Recodified from N.J.A.C. 14:3-12.4 by R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Former N.J.A.C. 14:3-12.3, Performance of audit, was repealed.

14:3-12.4 Implementation of results

(a) The utility may adopt, or the Board may order, the implementation of new or altered practices and procedures, as determined by the results of the audit.

(b) The Board's staff shall formulate, with the assistance of the utility, detailed plans to implement new or altered practices and procedures.

(c) The Board's staff shall monitor, evaluate and modify, as necessary, the implementation of new or altered practices and procedures to ensure the promotion of efficient and adequate service to meet the public convenience and necessity.

Recodified from N.J.A.C. 14:3-12.5 by R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Former N.J.A.C. 14:3-12.4, Results of audit, recodified to N.J.A.C. 14:3-12.3.

14:3-12.5 (Reserved)

Recodified to N.J.A.C. 14:3-12.4 by R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Section was "Implementation of results".

SUBCHAPTER 13. INTEREST ON OVER OR UNDER RECOVERED COST BALANCES UNDER ADJUSTMENT CLAUSES

14:3-13.1 Scope

(a) This subchapter provides for a gas, water, or waste-water public utility to pay interest to customers on over/un-

der-recovered gas, water, or wastewater cost balances, as these terms are defined at N.J.A.C. 14:3-13.2, which result from the operation of the following:

1. Periodic Basic Gas Supply Service (BGSS) pricing clauses;
2. Purchased Water Adjustment Clauses; and
3. Purchased Wastewater Treatment Adjustment Clauses.

(b) As part of each Board proceeding during which one or more periodic Basic Gas Supply Service (BGSS) charges is set, the gas utility shall submit a calculation demonstrating how much interest, if any, the utility owes to customers in accordance with this subchapter.

(c) As part of the year-end true up schedule required under N.J.A.C. 14:9-7.4, a water or wastewater utility shall submit a calculation demonstrating how much interest, if any, the utility owes to customers in accordance with this subchapter.

Amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Inserted designation (a); rewrote (a); and added (b) and (c).

14:3-13.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:4-1.2.

“Base cost of purchased wastewater treatment” has the same meaning as is assigned to this term at N.J.A.C. 14:9-7.2.

“Base cost of purchased water” has the same meaning as defined in N.J.A.C. 14:9-7.2.

“Over/under-recovered gas cost balance” means the amount that a gas utility has recovered from customers through basic gas supply service (BGSS) charges to date, less the net prudently incurred costs that the Board has determined are recoverable through BGSS charges to date. If the recoveries through BGSS charges to date exceed the utility’s net gas costs to date, the amount of excess is the utility’s over-recovered gas cost balance. If the utility’s gas costs to date exceed the utility’s net recoveries through BGSS charges to date, the amount of excess is the under-recovered gas cost balance.

“Periodic Basic Gas Supply Service charge” or “periodic BGSS charge” means a charge that the Board authorizes a gas utility to collect from all of its periodic BGSS customers, which is designed to enable the utility to recover the net cost of natural gas, or a substitute or supplemental fuel, that the utility has sold to customers.

“Periodic BGSS customer” means a customer who receives gas service under a periodic BGSS tariff.

“Periodic BGSS pricing clause” means the mechanism through which the Board authorizes a gas utility to adjust its periodic BGSS charge. These adjustments are made with the goal of achieving a zero over/under recovered gas cost balance by a specific date. The parameters for periodic BGSS pricing clauses are governed by various Board Orders including, but not limited to, the Board’s Order in Docket Number GX01050304, dated January 6, 2003.

“Purchased Wastewater Treatment Adjustment Clause” or “PWTAC” has the same meaning as defined in N.J.A.C. 14:9-7.2.

“Purchased Water Adjustment Clause” or “PWAC” shall have the same meaning as defined in N.J.A.C. 14:9-7.2.

Amended by R.2002 d.280, effective September 16, 2002.

See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

In “Base cost of purchased sewerage treatment”, rewrote the first sentence; in “Deferred accounting treatment” and “Purchased Sewerage Adjustment Clause”, substituted “wastewater” for “sewer”.

Amended by R.2006 d.367, effective October 16, 2006.

See: 38 N.J.R. 1538(a), 38 N.J.R. 4490(b).

Rewrote definitions “Base cost of purchased sewerage treatment”, “Base cost of purchased water” and “Deferred accounting”; deleted first occurrence of definition “Purchased Sewerage Treatment Adjustment Clause”; substituted definition “Purchased Wastewater Treatment Adjustment Clause” for second occurrence of “Purchased Sewerage Treatment Adjustment Clause”; and added definition “Purchased Water Adjustment Clause”.

Amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

In the introductory paragraph, substituted a period for a colon at the end of the first sentence and added the last sentence; deleted definitions “Applicable period”, “Base cost of energy”, “Base cost of gas”, “Deferred accounting”, “Deferred balance”, “Levelized Energy Adjustment Clause” and “Levelized Gas Adjustment Clause” or “LGAC”; substituted definition “Base cost of purchased wastewater treatment” for “Base cost of purchased sewerage treatment” and substituted “is assigned to this term at” for “the term ‘base cost of purchased wastewater treatment,’ as defined in”; added definitions “Over/under-recovered gas cost balance”, “Periodic Basic Gas Supply Service charge”, “Periodic BGSS customer” and “Periodic BGSS pricing clause”; and in definition “Purchased Wastewater Treatment Adjustment Clause” deleted “the term ‘purchased wastewater treatment adjustment clause,’ as” preceding “defined”.

Case Notes

A constant levelized energy adjustment clause (LEAC) charge, which is included in an electric utility’s overall rate tariff based on estimated prospective 12-month energy costs, is subject to periodic adjustment to reflect actual costs. *Petition of Atlantic City Elec. Co.*, 310 N.J.Super. 357, 708 A.2d 775 (A.D. 1998).

14:3-13.3 Interest calculation on over or under recoveries

(a) Each utility shall determine whether it owes interest to customers on excess funds recovered through adjustment clauses, and shall calculate any interest owed, in accordance with this subchapter. In no event shall interest be due to the utility as a result of a BGSS pricing clause, a purchased water adjustment clause, or a purchased wastewater treatment adjustment clause.

(b) The calculation of the amount of interest owed to customers, if any, shall cover the "applicable period," which shall be the 12-month period under review in the clause proceeding, unless otherwise specified by the Board.

(c) A gas utility, or a Class A water utility, or a wastewater utility that meets the revenue threshold for a Class A water utility, shall calculate the interest due to customers as follows:

1. Determine the interest rate to be used in the calculation as follows:

i. Divide the utility's Board-approved overall rate of return, in effect at the time of the calculation, by 12; and

ii. Round the amount derived under (c)1i above to four decimal places; and

2. Apply the interest rate in (c)1 above to calculate the interest due to customers in accordance with the applicable requirements at (d) or (e) below.

(d) A gas utility shall:

1. Determine the interest rate for each month of the applicable period in accordance with (c)1 above;

2. Multiply the rate determined under (d)1 above by the average over/under-recovered gas cost balance for the month; and

3. At the end of the applicable period, add together the monthly amounts calculated under (d)2 above.

(e) A Class A water utility, or wastewater treatment utility that meets the revenue threshold for a Class A water utility, shall:

1. If the utility bills customers monthly, the utility shall calculate the interest in the same manner as gas utilities under (d) above, utilizing the over-recovery amount determined under N.J.A.C. 14:9-7.4, rather than the over-recovered gas cost balance; or

2. If the utility bills customers quarterly, the utility shall, at the end of the applicable period, do the following:

i. Multiply the over-recovery amount determined under N.J.A.C. 14:9-7.4 by the interest rate determined in (c)1 above; and

ii. Multiply the amount determined under (e)2i above by the number of months in the applicable period.

(f) A Class B, C, or D water utility, or a wastewater utility that does not meet the revenue threshold for a Class A water utility, shall:

1. Multiply the over-recovery amount determined under N.J.A.C. 14:9-7.4 by the interest rate determined in (c)1 above;

2. Multiply the amount determined under (f)1 above by the number of months in the applicable period; and

3. Round this amount to four decimal places.

(g) If the amount resulting from the calculations at (d), (e), or (f) above is zero or a negative number, the utility shall not owe interest to customers for the applicable period. If the amount is a positive number, this is the amount of interest that is due to customers.

(h) Any interest due to customers from a water or wastewater utility shall be credited or refunded to customers in accordance with N.J.A.C. 14:9-7.4.

(i) Any interest due to customers from a gas utility shall be added to the utility's over/under-recovered cost balance. The sum of the interest and the over/under-recovered cost balance shall be incorporated into the calculations of the BGSS rate for the next applicable period.

Amended by R.2002 d.280, effective September 16, 2002.

See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

Rewrote the section.

Repeal and New Rule, R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Section was "Interest rate".

14:3-13.4 (Reserved)

Repealed by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Section was "Interest calculation".

14:3-13.5 (Reserved)

Repealed by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Section was "Tariff language requirement".