

CHAPTER 3

ALL UTILITIES

Authority

N.J.S.A. 48:2-13, 48:2-16, 48:2-17, 48:2-20, 48:2-24, 48:2-27, 48:2-76, 48:3-3, 48:3-7.8, 48:3-12, 48:13A-1 and 48:19-17.

Source and Effective Date

R.2002 d.280, effective July 31, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

Chapter Expiration Date

Chapter 3, All Utilities, expires on July 31, 2007.

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.1984 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 by 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 Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS

14:3-1.1 Definitions

The following words and terms, when used in N.J.A.C. 14:3 through 14:10, shall have the following meanings unless clearly indicated otherwise:

“Board” means the Board of Public Utilities of New Jersey.

“Customer” means the person identified in the account records of a utility as the person responsible for payment of the utility bill. A customer may or may not be an end user, as defined herein.

“Days” means calendar days unless specified otherwise.

“End user” means a person who receives, uses, or consumes electricity, gas, telephone, water or wastewater service. An end user may or may not be a customer, as defined herein.

“Person” means an individual, firm, joint venture, partnership, copartnership, corporation, association, State, county, municipality, public agency or authority, bi-state or interstate agency or authority, public utility, regulated entity, cable television company, cooperation association, or joint stock association, trust, limited liability company, governmental entity, or other legal entity, and includes any trustee, receiver, assignee, or personal representative thereof.

“Regulated entity” means a person or entity that is subject to the jurisdiction of the Board, or that provides a product or service subject to the jurisdiction of the Board. This term includes a public utility, as defined in this section.

“Regulated service” means a service subject to regulation by the Board.

“Residential customer” means a customer who receives utility service for use in a residence.

“Utility” has the same meaning as defined in N.J.S.A. 48:2-13 and includes pipeline utilities as defined in N.J.S.A. 48:10-3, and municipally-operated utilities, insofar as the Board’s jurisdiction is extended to them under the appropriate statutes.

Amended by R.1991 d.221, effective May 6, 1991.

See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

Internal reference cite corrected, “Board” definition updated.

Amended by R.1997 d.39, effective February 3, 1997.

See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Added “Residential customer”.

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

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

Added definition for “Days”.

Amended by R.2004 d.12, effective January 5, 2004.

See: 35 N.J.R. 91(a), 36 N.J.R. 200(b).

Amended “Customer” and “Residential customer”; added “End user” and “Person”.

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

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

Added “Regulated entity” and “Regulated service”.

Case Notes

Definition of utility; Board jurisdiction over municipally owned and operated utilities found only by specific statutory grant. Freehold Boro. v. Freehold Twp., 193 N.J.Super. 724, 475 A.2d 691 (App.Div. 1984).

3. A BRLTS customer shall be given a period of at least 15 days for payment after the postmark date indicated on the envelope in which the bill was transmitted. If payment is not received, in accordance with this section, the payment shall be deemed in arrears. In the absence of a postmark, the burden of proving the date of mailing shall be upon the utility.

(c) Termination of nonbasic residential local telephone service shall be as follows:

1. When a residential customer's charges for nonbasic telephone services are more than \$20.00 in arrears, a provider of BRLTS may deny or block those services, at no additional charge to the residential customer, subject to the notice requirements in this section. Customers who select the residential credit limit option set forth in (d) below shall not be blocked until such time as their limit is met.

2. In accordance with N.J.A.C. 14:3-7.12, before a BRLTS provider denies or blocks any nonbasic telephone service, the residential customer shall be given at least 10 days written notice of its intention to discontinue such service. A notice shall be served by the BRLTS provider (or other appropriate billing agent) whenever it intends to deny or block a nonbasic telephone service for nonpayment, except that no additional notice shall be required when, in response to a notice of discontinuance, a check submitted in payment is subsequently dishonored. The notice shall indicate that payments on the bill shall be applied as set forth in (f) below.

3. A BRLTS customer shall be given a period of at least 15 days for payment after the postmark date indicated on the envelope in which the bill was transmitted. If payment is not received, in accordance with this section, the payment shall be deemed in arrears. In the absence of a postmark, the burden of proving the date of mailing shall be upon the utility.

(d) A residential credit limit option may be offered to customers, as follows:

1. A provider of BRLTS and/or nonbasic residential telephone service may offer residential customers a credit limit option for an amount of not less than \$200. This option pertains exclusively to services other than BRLTS. Pursuant to this option, a customer may incur unpaid charges for services other than BRLTS, up to the amount of the credit limit option. A customer who selects the credit limit option shall not be required to submit to the service provider the customer deposit required by N.J.A.C. 14:10-4.6. Every provider of basic or nonbasic residential local telephone service shall offer a deferred payment arrangement pursuant to (e) below to any customer who exceeds the customer's credit limit option. In the event that the credit limit is reached for a customer selecting the credit limit option, the provider of service may block or otherwise restrict access by the customer to

services other than BRLTS. In such event, and notwithstanding other provisions of the tariff, no additional tariff charge for blocking or service restoral shall apply, nor shall a separate notice of discontinuance be sent by the telephone service provider.

2. Every provider of basic or nonbasic residential local telephone service, upon customer selection of the credit limit option, shall confirm said selection with the customer in writing, which confirmation shall include, but not be limited to, the following information:

i. The amount of the credit limit option;

ii. That nonbasic services may be disconnected without further notice should the customer exceed the selected credit limit;

iii. The customer's right to a reasonable deferred payment arrangement in order to allow the customer to maintain or restore telephone services; and

iv. A toll-free number which the customer may call either for additional information about the credit limit option or to advise the provider that the credit limit option is no longer desired, or to obtain the amount of credit used.

(e) Payment arrangements shall be made as follows:

1. Every BRLTS provider that bills a residential customer shall offer the customer a reasonable deferred payment arrangement that considers the customer's financial circumstances in order to allow a residential customer to maintain or restore telephone services.

2. Should it become necessary for a provider to implement a denial or block of BRLTS or nonbasic residential telephone service, the BRLTS provider shall allow the BRLTS customer the opportunity to make a reasonable payment agreement to fulfill the obligation of the outstanding balance billed by the BRLTS provider in order to prevent the denial or block of service or to have the denied or blocked service(s) restored.

3. No deferred payment arrangement shall require a BRLTS customer to pay as a down payment, more than 25 percent of the total outstanding bill due at the time the agreement is reached. Such agreements which extend for more than two months shall be confirmed in writing by the service provider, and sent to the customer. Such confirmation shall provide that a residential customer, who is presently unable to pay an outstanding debt for telephone service, may make reasonable periodic payments until the debt is paid while continuing payment of current bills. The billing provider may offer more than one payment agreement in a year. The Board may also order the billing provider to accept more than one deferred payment agreement in a year if said action is reasonable.

4. A deferred payment arrangement shall be available to all basic local residential customers, including those who select the credit limit option referenced in (d) above.

(f) Application of payments shall be made as follows:

1. Upon receipt of a partial payment from a telephone service residential customer, the billing provider shall apply the payment as follows:

i. The partial payment shall first be applied to BRLTS.

ii. Upon satisfaction of the charges identified in (f)1i above, any residual or subsequent payment received during the same billing period shall be applied to the charges for nonbasic telephone service.

iii. In the event a customer fails to pay a bill and a customer notifies the BRLTS provider that slamming, as defined in N.J.A.C. 14:10-10.2 and 10.5(c) and (g), has allegedly occurred, that portion of the bill that relates to the alleged slamming shall be considered in dispute pursuant to N.J.A.C. 14:3-7.13, and the BRLTS provider shall neither apply residual or partial payments to the customer's charges for the slammed service nor discontinue the customer's slammed service because of nonpayment.

2. At the time a customer subscribes to BRLTS, the provider of BRLTS shall inform the customer as to the partial payment allocation rules in (f)1, above.

3. Notice of the partial payment allocation rules in (f)1 above shall be printed in the Customer Guide Section of the directory of the provider of BRLTS.

New Rule, R.2000 d.84, effective March 6, 2000 (operative September 6, 2000).

See: 31 N.J.R. 740(a), 32 N.J.R. 815(b).

SUBCHAPTER 8. SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE

14:3-8.1 General provisions

(a) These formulae shall not be binding on the parties but are suggested as a guide to customers and utilities. Parties are still free to exercise their rights under N.J.S.A. 48:2-27. When an applicant for an extension is dissatisfied with the utility's proposal he may petition the Board for a finding that the extension should be made without charge.

(b) An extension shall be construed to mean the extension of facilities located on streets, highways, and/or rights-of-way acquired by the utility for common distribution and shall not include the meter or transformer or any part of the house service connections, nor shall the cost of extension as referred to in these rules include the cost of fire hydrants or their branches. The utility may require that the applicant furnish security to insure the use of services which security will be returned upon the commencement of service.

(c) Extension deposits are not to carry interest; except when the amount of the deposit exceeds the actual cost of the extension, the rate established in N.J.A.C. 14:3-7.5 for customer deposits shall be paid on the excess amount. In the event that the actual cost of the extension is less than the amount deposited, interest shall be computed from the date of deposit, or if more than one deposit payment is made, from the date on which the excess amount is deposited if other than the initial date of deposit.

Amended by R.1985 d.202, effective May 6, 1985.

See: 17 N.J.R. 174(a), 17 N.J.R. 1136(a).

(c) added.

Amended by R.1997 d.39, effective February 3, 1997.

See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Case Notes

No proof presented in line extension case that owner required to construct new line or that utility is without authority to do so. *State v. Sun Oil Co.*, 160 N.J.Super. 513, 390 A.2d 661 (Law Div.1978).

Award of interest denied on rebate moneys wrongfully withheld (citing former regulation). *A & A Construction Corp. v. West Keansburg Water Co.*, 6 N.J.A.R. 210 (1980).

14:3-8.1A Waiver request, operative date

(a) If a regulated entity requests a waiver of one or more requirements in this subchapter (as effective December 20, 2004) in accordance with N.J.A.C. 14:1-1.2(b), the waiver shall include documentation that the requirements of N.J.A.C. 14:1-1.2(b)1 and 2 are met. Specifically, the waiver request shall demonstrate how full compliance with the requirement(s) of this subchapter would adversely affect ratepayers and the ability of the regulated entity to render safe, adequate and proper service in an environmentally responsible manner; and shall demonstrate that the regulated entity's proposed alternative will meet the purposes and intent of this subchapter at least as effectively as the requirements that will be waived. Any such waiver request shall be submitted by January 19, 2005, and the Board shall act on the waiver request within 180 days after receipt of a complete waiver petition.

(b) This subchapter (as effective December 20, 2004) shall become operative on March 20, 2005, except for this section and N.J.A.C. 14:3-8.1B, which shall become operative on December 20, 2004.

New Rule, R.2004 d.462, effective December 20, 2004.

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

14:3-8.1B Submission of modified tariff

Each regulated entity shall submit to the Board a modified tariff that complies with this subchapter as operative March 20, 2005 (see 36 N.J.R. 5928(a)) by January 19, 2005.

New Rule, R.2004 d.462, effective December 20, 2004.

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

14:3-8.2 Residential land developer; extension other than telephone

(a) Except as otherwise provided, where applications for extensions into newly developed tracts of land are made by individuals, partnerships or corporations interested in the development or sale of land, but not as ultimate residents, the utility may require a deposit from the applicant covering the estimated cost of the extension as defined in N.J.A.C. 14:3-8.1(b), necessary to serve the tract. The estimated cost of the extension shall include the tax consequences incurred by the utility as a result of receiving deposits under the Tax Reform Act of 1986. The deposit shall be subject to adjustment when the actual cost of construction is determined. The actual cost of construction shall be determined and presented to the developer within 30 days after actual costs are known, but not more than 90 days after the date construction is completed.

(b) Except as otherwise provided, extension deposits are to be returned as provided in (c) below to the depositor when new houses abutting on the extended facilities are completed and the house is occupied by a bona fide owner or responsible tenant who has entered into a contract for use of the utility's service and, in addition, in the case of

water main extensions, when the municipality agrees to pay fire protection charges related directly to said extensions.

(c) Except as otherwise provided, the deposit shall be returned in an amount equal to five times the estimated annual revenue from each such completion and occupancy. The deposit for a water or wastewater main extension shall be returned in an amount equal to two and one-half times the estimated annual revenue from each such completion and occupancy and from fire protection charges on said extension. If during the ten-year period from the date of the original deposit, the actual annual revenue during any year of said 10-year period from premises abutting upon said extension and from amounts received from the municipality for fire protection service in the case of water main extensions shall exceed the annual revenue which was the basis for the previous deposit return, there shall be returned to the depositor an amount equal to five times such excess, two and one-half times such excess in the case of a water or wastewater main extension. In no event shall more than the deposit be returned to the depositor nor shall any part of the deposit remaining after 10 years from the date of the original deposit be returned.

EXAMPLE

Cost of Extension to Utility and Net Deposit Collected from Land Developer	\$1,500.00
Estimated Annual Revenue, First House Completed and Occupied	\$ 100.00
Factor	
Deposit Returned to Land Developer	\$ 500.00
Deposit Remaining with Utility	\$1,000.00
Estimated Annual Revenue, Second House Completed and Occupied	\$100.00
Factor	5

Deposit Returned to Land Developer	\$ 500.00
Deposit Remaining with Utility	\$ 500.00
Actual Revenues in a Subsequent Year from Above Houses	\$250.00
Estimated Annual Revenue from Above Houses	\$200.00
Excess Annual Revenues	\$ 50.00
Factor	5
Deposit Returned to Land Developer	\$ 250.00
Deposit Remaining with Utility	\$ 250.00

EXAMPLE

Cost of Extension to Utility and Net Deposit Collected from Land Developer	\$1,000.00
Estimated Annual Revenue, First House Completed and Occupied	\$ 150.00
Factor	2½
Deposit Returned to Land Developer	\$ 375.00
Deposit Remaining with Utility	\$ 625.00
Estimated Annual Revenue, Second House Completed and Occupied	\$150.00
Factor	2½
Deposit Returned to Land Developer	\$ 375.00
Deposit Remaining with Utility	\$ 250.00
Actual Revenues in a Subsequent Year from Above Houses	\$400.00
Estimated Annual Revenue from Above Houses	\$300.00
Excess Annual Revenues	\$100.00
Factor	2½
Deposit Returned to Land Developer	\$ 250.00
Deposit Remaining with Utility	\$ 0

Substituted "wastewater" for "sewer" throughout.

CASE NOTES

Determination by the Board of Public Utilities regarding cost of extension of public utilities was authorized exercise of agency discretion. *Van Holten Group v. Elizabethtown Water Co.*, 121 N.J. 48, 577 A.2d 829 (1990), on remand.

Developer of proposed large residential community failed to establish existence of 'sufficient business' such that utility should be required to bear costs, and thus, developer was required to bear costs for such extensions. *Van Holten Group v. Elizabethtown Water Co.*, 121 N.J. 48, 577 A.2d 829 (1990), on remand.

Board had discretionary authority to establish equitable refund formula. *Van Holten Group v. Elizabethtown Water Company*, 94 N.J.A.R.2d (BRC) 96.

Award of interest denied on rebate moneys wrongfully withheld (citing former regulation). *A & A Construction Corp. v. West Keanburg Water Co.*, 6 N.J.A.R. 210 (1980).

14:3-8.3 Individual residential customer; extension other than telephone

(a) Where the estimated cost to the utility for an extension to individual permanent residential customers does not

Amended by R.1985 d.202, effective May 6, 1985.
See: 17 N.J.R. 174(a), 17 N.J.R. 1136(a).
Substantially amended.
Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).
Reference added in (a) to Tax Reform Act of 1986.
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

exceed five times the estimated annual revenue, the utility shall make the necessary extension upon receiving from the customer an application for service. Such application shall be made by the owner of the property or by a responsible tenant.

(b) Where the estimated cost of an extension exceeds the amount which the utility must install without cost to the customer, in accordance with (a) above, the excess cost of the extension shall be deposited and remain with the utility without interest until such time as the actual annual revenue from premises abutting upon said extension, as well as from amounts paid by the municipality for fire protection service in the case of a water main extension, exceeds the amount which was used as the basis for the initial deposit computation, or the basis for a previous return, there shall be returned to the depositor an additional amount equal to five times such excess. The deposit shall be subject to adjustment when the actual cost of construction is determined. The actual cost of construction shall be determined and presented to the customer within 30 days after actual costs are known, but not more than 90 days after the date construction is completed. In no event shall more than the deposit be returned nor shall any part of the original deposit remaining after 10 years from the date of the original deposit be returned.

EXAMPLE

Cost of Extension	\$1,000.00
Estimated Annual Revenue	\$ 100.00
Factor	
Offset to Deposit	\$ 500.00
Actual Annual Revenue	\$ 150.00
Estimated Annual Revenue used above	\$ 100.00
Excess Revenue	\$ 50.00
Factor	
Deposit Returned to Customer	\$ 250.00
Deposit Remaining with Utility	\$ 250.00
Actual Revenue in Subsequent Year	200.00
Last Actual Revenue used as a Basis for	
Deposit Return above	\$ 150.00
Excess Revenue	\$ 50.00
Factor	
Deposit Return to Customer	\$ 250.00
Deposit Remaining with Utility	\$—0

SUBCHAPTER 9. GENERAL PROVISIONS

14:3-9.1 Rules not retroactive

The rules of this Chapter shall not be construed to be retroactive with respect to the reconstruction of facilities or the maintenance of records in accordance with those standards prescribed in this Chapter which were not in force when such facilities were installed or constructed or when the maintenance of such records commenced. However, the Board reserves the right to deal with specific cases as the particular conditions require.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

14:3-9.2 Deviation and modification

(a) Should conditions exist where a deviation from any of these rules should be made to suit such conditions, petition may be made to the Board for such deviation.

(b) These rules may be amended or modified by the Board from time to time.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

14:3-9.3 Tariffs

(a) Where these rules are in conflict with any terms and conditions contained in any utility tariff, these rules shall govern unless otherwise authorized by the Board.

(b) A utility's tariff shall not be construed to be in conflict with these rules if said tariff provides for more liberal treatment of customers than that provided for in these rules.

Amended by R.1997 d.39, effective February 3, 1997.

(c) Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with subsection (a) of this Section, the utility and the customer may agree upon a monthly revenue guarantee not to exceed 1/60 of the total cost of the extension, in lieu of a deposit pursuant to subsection (b) of this Section.

Amended by R.1985 d.202, effective May 6, 1985.
See: 17 N.J.R. 174(a), 17 N.J.R. 1136(a).

Added text in (b): "The actual cost (3)27 construction is completed," and "remaining after 10 years from the date of the original deposit".

CASE NOTES

Award of interest denied on rebate moneys wrongfully withheld (citing former regulation). A & A Construction Corp. v. West Keansburg Water Co., 6 N.J.A.R. 210 (1980).

See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

14:3-9.4 Authority

These rules are promulgated pursuant to authority vested in the Board by the New Jersey Statutes Annotated, and shall be construed in conformity with, and not in derogation of, such statutes.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

14:3-9.5 Prior rules

Except as otherwise provided in this Chapter, rules and standards heretofore promulgated with respect to the subject matter encompassed by these rules are hereby superseded and revoked.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

14:3-9.6 Rates; difference from filed tariffs

(a) In every instance where a utility, subject to the jurisdiction of the Board, enters into a contract or agreement with a customer for the sale of its service at rates different from those provided in the existing tariffs of the utility on file with the Board, it shall file four copies of such contract or agreement, with amendments and supplements, if any, not less than 30 days prior to the effective date thereof.

(b) The filing shall be accompanied by a detailed statement as to the:

1. Type of agreement; for example, firm or interruptible service;

2. Detailed costs to the utility associated with delivery and sale of the service;

3. Rates and other charges to the customer;

4. Effect on the company's income of such sale;

5. Reasons for the contract or agreement.

R.1973 d.157, effective June 19, 1973.

See: 5 N.J.R. 123(b), 5 N.J.R. 240(a).

Amended by R.1997 d.39, effective February 3, 1997.

See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Historical Note

Formerly Administrative Order 14:283.

Case Notes

Municipalities required to enter into solid waste disposal contracts only after advertising for competitive bids; Public Contracts Law did not repeal municipal public bidding for scavenger services statute; such contracts are not "schedules of charges" or "tariffs" to permit bidding exemption. In re: Application of Saddle River Boro., 71 N.J. 14, 362 A.2d 552 (1976).

Attempt to eliminate competition warranted revocation of solid waste authority and debarment order. Matter of Allegations, Cicalese, 95 N.J.A.R.2d (EPE) 217, certification denied 143 N.J. 319, 670 A.2d 1061.

Revocation of solid waste disposal company license was appropriate. In the Matter of Allegations of Violations of Law and Administrative Code by A. Fiore & Sons, Inc., 94 N.J.A.R.2d (EPE) 193.

Solid waste utility; loss of license; order to pay penalties and refunds. In the Matter of Industrial & Commercial Refuse Removal Service, Inc., 94 N.J.A.R.2d (EPE) 149.

Charge computation in assumed contract should have been submitted to Board for review as inconsistent with tariff. Board of Public Utilities v. Hamm's Sanitation, Inc., 2 N.J.A.R. 59 (1979).

SUBCHAPTER 10 THROUGH 11. (RESERVED)

SUBCHAPTER 12. UTILITY MANAGEMENT
AUDITS**14:3-12.1 Applicability**

The rules of this subchapter shall be applicable to those utilities subject to the requirements set forth in N.J.S.A. 48:2-16.4.

14:3-12.2 Initiation of audit

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.

14:3-12.3 Performance of audit

(a) Where the Board requires an audit to be performed by an independent management consulting firm under the supervision of designated members of the Board's staff, the following provisions shall apply:

1. The Board's staff shall establish and maintain a list of qualified consulting firms from which participants shall be selected to be invited to submit proposals to perform the audit, except that any consulting firm may request, in writing, to become a participant and shall be awarded the full privileges thereof;
2. The Board's staff shall prepare a request for proposals to be mailed to all participants setting forth all pertinent criteria to be used by the Board's staff in its evaluation of submitted proposals;
3. The Board's staff shall invite all participants to attend a conference, prior to the submission of proposals, for the purpose of reviewing the request for proposals with the Board's staff and representatives of the utility;
4. The Board's staff shall prepare, with the assistance of the utility, an evaluation of all submitted proposals for review by the Board, from which a consulting firm shall be selected to perform the audit; and
5. The Board's staff shall prepare a written agreement, setting forth all terms and conditions of the audit, to be signed by authorized representatives of the utility and the selected consulting firm.

(b) In lieu of selecting a consulting firm, the Board may require an audit to be performed by members of its staff.

14:3-12.4 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.

14:3-12.5 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.

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**14:3-13.1 Scope**

The rules contained in this subchapter shall apply to deferred balances which result from the operation of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Sewerage Treatment Adjustment Clauses.

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:

"Applicable period" means the period or timeframe in which any adjustment clause is in effect, usually 12 months, or any other period as authorized by the Board.

"Base cost of energy" means the cost of energy produced, purchased and interchanged as established in the most recent base rate or adjustment clause case of an electric utility and collected via the base rates of that electric utility.

"Base cost of gas" means the cost of gas produced and/or purchased as established in the most recent base rate or adjustment clause case of a gas utility and collected via the base rates of that gas utility.

"Base cost of purchased sewerage treatment" means the cost of contractually purchased sewerage treatment as established in the most recent base rate or adjustment clause case

of a wastewater utility. Actual cost shall be reflected as cost per 1,000 gallons or cost per 1,000,000 gallons unless otherwise specifically approved by the Board. (See N.J.A.C. 14:9-8.2.)

“Base cost of purchased water” means the cost of contractually purchased water as established in the most recent base rate or adjustment clause case of a water utility and collected via the base rates of that water utility. Actual cost shall be reflected as cost per 1,000 gallons or cost per 1,000,000 gallons unless otherwise specifically approved by the Board. (See N.J.A.C. 14:9-7.2.)

“Deferred accounting treatment” means the deferring on the books and records of a water or wastewater utility the difference between the expense imposed upon it by a water purveyor for purchased water or by a sewerage treatment purveyor for purchased sewerage treatment, and, as effective at the time of the imposition of the expense, the amount of expense approved by the Board for inclusion in rates for recovery of this expense. (See N.J.A.C. 14:9-7.2 and 8.2.)

“Deferred balance” means the difference between the cost of energy or gas collected via an electric or gas utility’s rates and the actual cost incurred by the electric or gas utility for the applicable period.

“Levelized Energy Adjustment Clause” or “LEAC” means the mechanism employed by electric utilities whereby a charge or credit is made when the estimated average cost of energy produced, purchased, and interchanged for the applicable period is above or below the base cost of energy; or its successor clause.

“Levelized Gas Adjustment Clause” or “LGAC” means the mechanism employed by gas utilities whereby a charge or a credit is made when the estimated average cost of gas purchased and or produced for the applicable period is above or below the base cost of gas; or its successor clause.

“Purchased Sewerage Treatment Adjustment Clause” or “PSTAC” means the methodology by which a sewer utility obtains recognition in its rates of an increase or decrease in the cost of sewerage treatment purchased by it from a sewerage treatment purveyor (see N.J.A.C. 14:9-8.2); or its successor clause.

“Purchased Sewerage Treatment Adjustment Clause” or “PSTAC” means the methodology by which a wastewater utility obtains recognition in its rates of an increase or decrease in the cost of sewerage treatment purchased by it from a sewerage treatment purveyor (see N.J.A.C. 14:9-8.2); or its successor clause.

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”.

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 rate

The interest rate to be used should reflect the utility’s Board-approved overall rate of return, effective at the time of interest rate calculation. That rate, divided by 12 and rounded to four decimal places, shall be applied monthly on the average of the current and prior months’ positive or negative cumulative deferred ending balances; Class B, C and D water utilities and wastewater utilities that meet the revenue threshold of a Class B, C or D water utility have the option to calculate the interest, at the annual overall rate of return on the deferral balance, at the end of the clause 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.

14:3-13.4 Interest calculation

(a) The clause cost adjustment will be effective on a 12-month basis, unless otherwise specified by the Board within the context of an appropriate rate proceeding.

(b) The difference between actual clause costs and the utility’s recovery amount of the base clause cost and the clause cost adjustment charge shall be determined monthly. If actual clause costs exceed the amount of recovery of the base clause cost and the clause adjustment charge, an underrecovery or a negative balance will result. If the amount of recovery of the base clause cost and the clause adjustment charge exceed actual clause costs, an overrecovery or a positive balance will result.

(c) Interest shall be applied monthly to the average monthly cumulative deferred balance, positive or negative, from the beginning to the end of the clause period.

(d) Monthly interest on negative deferred balances (underrecoveries) shall be netted against monthly interest on positive deferred balances (overrecoveries) for the clause period.

(e) A cumulative net positive interest balance at the end of the clause period is owed to customers and shall be returned to customers in the next clause period. A cumulative net negative interest balance shall be zeroed out at the end of the clause period.

(f) The sum of the calculated monthly interests shall be added to the overrecovery balance or subtracted from the underrecovery balance at the end of the clause period. The positive interest balance shall be rolled into the beginning over-underrecovery balance of the subsequent clause period.

14:3-13.5 Tariff language requirement

The utility's tariff shall include the language provided in N.J.A.C. 14:3-13.4.