

CHAPTER 3
ALL UTILITIES

Authority

N.J.S.A. 48:2-13, 48:2-16, 48:2-17, 48:2-20, 48:2-23, 48:2-24, 48:2-27, 48:2-76, 48:3-3, 48:3-7.8, 48:3-12, 48:5A-10, 48:5A-36, 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.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 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.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

14:3-1.1 Definitions

SUBCHAPTER 2. PLANT

- 14:3-2.1 Plant construction
- 14:3-2.2 Inspection of work performed by contractors
- 14:3-2.3 Foreign construction on utility poles
- 14:3-2.4 Identification of buildings and structures
- 14:3-2.5 Identification of poles or structures supporting wires; fire hydrants
- 14:3-2.6 Maintenance of plant, equipment and facilities
- 14:3-2.7 Inspection of property
- 14:3-2.8 Construction work near utility facilities

SUBCHAPTER 3. SERVICE

- 14:3-3.1 Duty
- 14:3-3.2 Applications
- 14:3-3.3 Customer information
- 14:3-3.4 Permits
- 14:3-3.5 Refusal to connect
- 14:3-3.6 Basis of discontinuance of service
- 14:3-3.7 Basis for restoration
- 14:3-3.8 Access to customer's premises
- 14:3-3.9 Interruptions; reporting threatened interruptions of service
- 14:3-3.10 Service call scheduling

SUBCHAPTER 4. METERS

- 14:3-4.1 Ownership
- 14:3-4.2 Location
- 14:3-4.3 Access
- 14:3-4.4 Equipment for testing
- 14:3-4.5 Tests by utility on request

- 14:3-4.6 Tests by Board on request
- 14:3-4.7 Adjustment of charges
- 14:3-4.8 Meter test reports
- 14:3-4.9 Meter records
- 14:3-4.10 Meter replacement

SUBCHAPTER 5. OFFICES

- 14:3-5.1 Location
- 14:3-5.2 Personnel to be contacted
- 14:3-5.3 Emergency telephone numbers

SUBCHAPTER 6. RECORDS

- 14:3-6.1 Location and examination
- 14:3-6.2 Plant and operating
- 14:3-6.3 Periodic reports
- 14:3-6.4 Accidents
- 14:3-6.5 (Reserved)
- 14:3-6.6 Telephone system information

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

- 14:3-7.1 Deposits for metered and telephone service
- 14:3-7.2 Deposits to insure credit of new customers
- 14:3-7.3 Customers in default
- 14:3-7.4 Receipts and records
- 14:3-7.5 Return of deposits
- 14:3-7.6 Unmetered service
- 14:3-7.7 Information to customers
- 14:3-7.8 Record of customer's account
- 14:3-7.9 Form of bill for metered service
- 14:3-7.10 Form of bill for unmetered service
- 14:3-7.11 Method of billing
- 14:3-7.11A Requirement for budget billing and payment plans of gas, electric, water and wastewater utilities for residential accounts
- 14:3-7.12 Notice of discontinuance
- 14:3-7.12A Winter termination of residential electric and gas service (Winter Termination Program)
- 14:3-7.13 Disputes as to bills
- 14:3-7.14 Discontinuance of service to tenants
- 14:3-7.15 Notification to municipalities of discontinuance of gas and electric service to residential customer
- 14:3-7.16 Diversion of service
- 14:3-7.17 Termination of residential telephone service

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

- 14:3-8.1 Scope and applicability
- 14:3-8.1A Waiver request, operative date
- 14:3-8.1B (Reserved)
- 14:3-8.2 Definitions
- 14:3-8.3 General requirement to provide extensions
- 14:3-8.4 Requirement to put certain extensions underground
- 14:3-8.5 General provisions regarding costs of extensions
- 14:3-8.6 Costs for extension serving an area not designated for growth
- 14:3-8.7 Costs for extension serving a designated growth area
- 14:3-8.8 Exemptions from cost limits on areas not designated for growth
- 14:3-8.9 Designated growth area suggested formulae—general provisions
- 14:3-8.10 Designated growth area suggested formula—multi-unit or nonresidential development
- 14:3-8.11 Designated growth area suggested formula—single residential customer
- 14:3-8.12 Smart growth infrastructure investment program (SGIP)
- 14:3-8.13 Enforcement

SUBCHAPTER 9. GENERAL PROVISIONS

- 14:3-9.1 Rules not retroactive
- 14:3-9.2 Deviation and modification

- 14:3-9.3 Tariffs
- 14:3-9.4 Authority
- 14:3-9.5 Prior rules
- 14:3-9.6 Rates; difference from filed tariffs

SUBCHAPTER 10. TARGETED REVITALIZATION INCENTIVE PROGRAM (TRIP)

- 14:3-10.1 Purpose and scope, general provisions
- 14:3-10.2 "TRIP area" defined
- 14:3-10.3 Investments eligible for coverage under a TRIP
- 14:3-10.4 Initial Board approval of a TRIP
- 14:3-10.5 Annual TRIP adjustment petition
- 14:3-10.6 Termination of a TRIP
- 14:3-10.7 Calculating the TRIP charge

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. UTILITY MANAGEMENT AUDITS

- 14:3-12.1 Applicability
- 14:3-12.2 Initiation of audit
- 14:3-12.3 Performance of audit
- 14:3-12.4 Results of audit
- 14:3-12.5 Implementation of results

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
- 14:3-13.2 Definitions
- 14:3-13.3 Interest rate
- 14:3-13.4 Interest calculation
- 14:3-13.5 Tariff language requirement

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 regulated entity as the person responsible for payment of the bill of the regulated entity. 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 service from a regulated entity 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”.

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

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

In definition “Customer”, substituted “regulated entity” for the first occurrence of “utility”, deleted the second occurrence of “utility” and inserted “of the regulated entity” following “bill”; and in definition “Residential customer”, deleted “utility” preceding “service” and inserted “from a regulated entity”.

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).

iv. A final bill for a budget plan year shall be issued at the end of the budget plan year and shall contain that month's monthly budget amount plus an adjustment of any difference between said amount and the actual cost of the service rendered during the budget plan year; and

v. A utility shall notify plan customers in writing of a revised monthly budget amount at least 10 working days before the due date of the initial bill of the next budget plan year.

6. The plan shall be offered by a bill insert or bill message to eligible customers at least twice in each 12 month period.

7. The plan bill shall contain the information required by N.J.A.C. 14:3-7.9 (Form of bill for metered service), N.J.A.C. 14:3-7.10 (Form of bill for unmetered service) and N.J.A.C. 14:3-7.11 (Method of billing). In addition, the plan bill shall show the monthly budget amount, budget balance and, when feasible, the budget billing to date and the actual cost of service rendered billing to date.

8. A customer may go off a plan at any time, in which event the customer shall pay the amount owed for service rendered or, in the alternative, agree to a stipulated payment agreement according to N.J.A.C. 14:3-7.13(c).

(b) A plan currently constituted and in place on the effective date of these rules shall remain in effect until expiration of the plan. Upon renewal of a plan, the rules promulgated herein shall apply.

(c) Each gas and electric utility shall file with the Board a copy of its budget billing and payment plan.

R.1983 d.651, eff. February 6, 1984.

See: 15 N.J.R. 1235(a), 16 N.J.R. 250(a), 16 N.J.R. 1807(b).

Section expires on February 6, 1989.

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

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

In (a), amended characteristics of budget billing and payment plan.

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

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

In (a), rewrote the introductory paragraph.

14:3-7.12 Notice of discontinuance

(a) The 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. In the absence of a postmark, the burden of proving the date of mailing shall be upon the utility. When a customer mails any payment for the net amount of a bill for service, and such payment is received at the utility's office not more than two full business days after the due date printed on the bill, the customer shall be deemed to have made timely payment. A public utility may discontinue service for nonpayment of bills provided it gives the customer, except for a fire protection service customer as set out in (f) below, at least 10 days written notice of its intention to discontinue. This written

notice shall be sent by first class mail, apart from the bill and as a separate mailing. However, should a utility find that compliance with this rule would result in financial harm and/or would negatively impact the utility's daily operations, the utility may file a written request for exemption with the Secretary of the Board, setting forth the basis for such request. The notice of discontinuance shall not be served until the expiration of the said 15-day period. A new notice shall be served by the utility each time it intends to discontinue service for nonpayment of a bill except that no additional notice shall be required when, in response to a notice of discontinuance, payment by check is subsequently dishonored. However, in the case of fraud, illegal, use, or when it is clearly indicated that the customer is preparing to leave, the 15-day period shall be waived and immediate payment of accounts may be required. An electric, gas, telephone, water, or wastewater company shall, upon request of the customer, send a Spanish language version of the notice of discontinuance.

1. Electric, gas, water, wastewater and telephone public utilities shall annually notify all residential customers that, upon request, notice of discontinuance of service will be sent to a designated third party as well as to the customer.

2. Electric, gas, water, wastewater and telephone public utilities shall make good faith efforts to determine which of their residential customers are over 65 years of age, and shall make good faith efforts to notify such customers of discontinuance of service by telephone in addition to notice by regular mail. This effort may consist of an appropriate inquiry set forth on the notice informing customers that they may designate a third party to receive notice of discontinuance. This provision shall not apply to utilities which make good faith efforts to contact all residential customers by telephone prior to discontinuance and file with the Board a statement setting forth such procedure.

3. Electric and gas utilities shall, on a semi-annual basis, solicit information from their residential customers in order to determine the presence of any life-sustaining equipment on the customer's premises.

4. Electric, gas, water, wastewater and telephone public utilities shall provide written notification to the Board's Division of Customer Assistance at least 14 business days prior to the discontinuance of service to hospitals, nursing homes, assisted care facilities, public and private schools, colleges and universities, and airports and other major transportation facilities including, but not limited to, railroad, autobus and subway facilities. The notification shall include:

- i. The name of the customer of record;
- ii. The location of the premises;
- iii. The amount owed;

- iv. A statement of account including payment history;
- v. The method of and attempts made for negotiation and resolution; and
- vi. The scheduled discontinuance date.

(b) When the customer is a public utility under the Board's jurisdiction, the serving utility shall concurrently serve a copy of the notice of discontinuance on the Board.

(c) On all notices of discontinuance to residential customers there shall be included:

1. A statement that reflects that the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities and includes the address and telephone numbers of the Board. The telephone numbers of the Board to be indicated on such statement are (973) 648-2350 and 1-800-624-0241 (toll free).

2. A statement that in the event the customer is either unable to make payment of a bill or wishes to contest a bill the customer should contact the utility. The notice shall contain information sufficient for the customer to make appropriate inquiry.

3. A statement that if a customer is presently unable to pay an outstanding bill, the customer may contact the utility to discuss the possibility of entering into a reasonable deferred payment agreement. In the case of a residential customer receiving more than one different service from the same utility, the statement shall state that deferred payment agreements are available separately for each utility service.

(d) On all notices of discontinuance to residential electric and gas customers there shall be included, in addition to (c) above:

1. A statement that the customer may contact the Board of Public Utilities to request assistance in the resolution of a bona fide disputed charge and further, that a customer may also request a formal hearing concerning such disputed charge.

2. A statement that if, within five days, a request is made to the Board of Public Utilities for an investigation of the disputed charge, the customer's service shall not be discontinued because of non-payment of bills provided all undisputed charges are paid.

3. A statement that a customer may have counsel, or a third party of his choosing present when appearing before a utility to contest a bona fide disputed charge.

(e) The statement required to be included on notices of discontinuance of electric and gas customers pursuant to (c) and (d) above shall be printed on the back of the notice under the headline (in boldface) "STATEMENT OF CUSTOMER'S RIGHTS." The headline shall be printed in type no less than one-half inch in height (36 points). The individual statements shall be printed in type no less than ½ inch in height (12 points). No other matter shall be printed upon the back of the notice.

(f) Each water utility shall, on a semiannual basis, make a reasonable effort to solicit information from its fire protection service customers in order to determine the name of the insurance company currently providing insurance protection to the customer and the policy number under which said protection is being provided.

1. At least 30 days prior to the discontinuance of fire protection service, the water utility providing that service shall give notice via certified mail to the following:

- i. The fire protection service customer of record;
- ii. The property owner, if different than the customer of record;
- iii. The mayor of the municipality in which the service is provided;
- iv. The fire chief of the municipality in which the service is provided;
- v. The enforcing housing code official of the municipality in which the service is provided;
- vi. The enforcing uniform fire code official of the municipality in which the service is provided;
- vii. The welfare officer of the municipality in which the service is provided;
- viii. The Director of County Welfare in the county in which the service is provided;
- ix. The insurance company providing fire protection coverage; and
- x. The Board of Public Utilities.

2. In the event that fire protection service is ultimately discontinued, the servicing water utility shall immediately notify, via certified mail, the parties listed in (f)1 above and the:

Customer Service Division
Insurance Service Office
Commercial Risk Services
2 Sylvan Way
Parsippany, New Jersey 07054

As amended, R.1978 d.155, eff. May 16, 1978.

See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).

As amended, R.1980 d.555, eff. December 29, 1980.

See: 12 N.J.R. 552(a), 13 N.J.R. 105(b).

(a)3, (d)1-3, and (e) added.

Amended by R.1985 d.166, effective April 15, 1985.

See: 16 N.J.R. 2747(a), 17 N.J.R. 974(a).

Added text in (c)3 "In the case . . . each utility service."

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

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

Added toll-free number at (c)1.

Amended by R.1992 d.456, effective November 16, 1992.

See: 24 N.J.R. 2341(a), 24 N.J.R. 4271(a).

Added new (f)1 and 2; requirements regarding notification of discontinuance fire protection service.

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

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

Substantially amended (a); in (e), inserted requirement that notice be in boldface; in (f), inserted text "make a reasonable effort to"; and in (f)1, amended list of entities to be notified.

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

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

In (a) substituted "wastewater" for "sewer" in 1 and 2 and added 4; rewrote (c)1.

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

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

In (a), rewrote the introductory paragraph.

Case Notes

Homeowners' association was not entitled to stay of discontinuance by water utility of fire hydrant service. In *Matter of Vernon Valley Water Company v. Stone Hill Property Owners Association*, 93 N.J.A.R.2d (BRC) 1.

Check sent by customer to water utility did not constitute accord and satisfaction; customer entitled to credit but not punitive damages. *Slowski v. City of Trenton*, 92 N.J.A.R.2d (BRC) 71.

A Superior Court order was res judicata with respect to administrative petition claiming that judgment finding building owner liable for utility bills was erroneous. *Jones v. Public Service Electric and Gas Company*, 92 N.J.A.R.2d (BRC) 61.

Service discontinuance by gas and electric utility; appropriate notice given and discontinuance not on basis of non-payment of contested charges. *Buczek v. Public Service Electric & Gas*, 92 N.J.A.R.2d (BRC) 13.

14:3-7.12A Winter termination of residential electric and gas service (Winter Termination Program)

(a) A regulated electric or gas utility shall not discontinue service during the period from November 15 through March 15, referred to in this section as the "heating season," unless otherwise ordered by the Board, to those residential customers who demonstrate at the time of the intended termination that they are:

1. Recipients of benefits under the Lifeline Credit Program;
2. Recipients of benefits under the Federal Home Energy Assistance Program (HEAP), or certified as eligible therefore under standards set by the New Jersey Department of Human Services;
3. Recipients of Temporary Assistance to Needy Families (TANF);
4. Recipients of Federal Supplemental Security Income (SSI);
5. Recipients of Pharmaceutical Assistance to The Aged and Disabled (PAAD);
6. Recipients of General Assistance (GA) benefits;
7. Recipients of the Universal Service Fund (USF); or
8. Persons unable to pay their utility bills because of circumstances beyond their control. Such circumstances shall include but shall not be limited to unemployment, illness, medically related expenses, recent death of a spouse and any other circumstances which might cause financial hardship.

(b) Those residential electric or gas customers whose services have been discontinued for non-payment and have not been reconnected as of November 15, and who are otherwise eligible for protection under the Winter Termination Program, shall be required to make a down payment of up to 25 percent of the outstanding balance as a condition precedent to the receipt of services during the current heating season. The customer shall be notified, at the time of enrollment in a budget payment plan as required by (c) below, that the 25 percent down payment shall represent a maximum required amount and is not to be regarded as a minimum required payment. The utility shall consider the customer's ability to pay in determining the appropriate level of the required down payment, but in no instance shall such required payment exceed 25 percent of the outstanding balance. The utility shall refer to the Board for resolution, all disputes regarding the appropriate level of down payments.

(c) All residential electric or gas customers who are eligible for and who seek the protection of the Winter Termination Program shall enroll in a budget payment plan on an annual basis.

(d) All residential electric or gas customers who are eligible for and who seek the protection of the Winter Termination Program shall make good-faith payments during the heating season, if they have the ability to do so. Said payments should be equal to a budget payment amount, although a lesser amount shall be accepted from those customers who do not have the ability to pay the full budget amount.

1. If an eligible customer has the ability to make a good-faith payment but refuses to do so, or if there is any other dispute related to good-faith payments, the servicing utility shall refer said dispute to the Board for a determination. In addition, the servicing utility shall inform each eligible customer involved in such a dispute that the matter has been forwarded to the Board for a determination and that the customer may also notify the Board of the dispute if he or she so chooses. Until the Board has rendered a determination in such an instance, the servicing utility shall not unilaterally discontinue service during the heating season.

(e) Customers who are eligible for and who seek the protection of the Winter Termination Program shall forward all energy related financial assistance, such as Home Energy Assistance Program (HEAP) heating benefits, to their electric or gas utility, if either utility is their major heat supplier.

(f) During the heating season, the affected electric or gas utilities shall not request a security deposit or an addition to an existing security deposit from a customer who is eligible for and seeks the protection of the Winter Termination Program.

(g) During the heating season, all notices of discontinuance of residential electric or gas services shall be accompanied by a Winter Termination Program fact sheet, printed in both English and Spanish, setting forth all terms and conditions of the Program. The affected electric and gas utilities shall submit drafts of their proposed fact sheets to the Board no later than October 1, in order that the Board may approve their form and substance prior to the heating season. The form and substance of the Winter Termination Program fact sheets shall be subject to Board review and approval on an annual basis.

(h) Customers who are eligible for and seek the protection of the Winter Termination Program shall participate in the low income seal-up programs, if available and if eligible therefor, currently approved by the Board and administered by the affected electric and gas utilities. The implementation of this requirement shall be effectuated through the following procedures:

1. Descriptive information on the low income seal-up programs shall accompany the Winter Termination Program fact sheet as required in (g) above;

2. The utility shall refer to its seal-up contractor, the names of responding protected customers who are eligible for the low income seal-up programs. The contractor or the utility shall contact the customers to schedule the seal-up. Scheduling shall take place as soon as practicable after receipt of the customer response to the notice of discontinuance;

3. Winter Termination Program customer seal-ups shall be performed as soon as practicable. If a utility projects that it cannot complete these seal-ups prior to the end of the heating season, it shall submit an alternate implementation schedule to the Board for review on or before January 31;

4. The contractor shall perform a general audit of the dwelling and perform the most cost effective weatherization measures first. The contractor shall record and report to the utility any structural deficiencies requiring greater weatherization measures beyond the scope of the seal-up. The utility shall refer the customer names to those agencies providing low income weatherization programs;

5. The utility shall inform all agencies administering the Low Income Weatherization Grant Program in its territory of the new seal-up and weatherization grant provisions of the Winter Termination Program;

6. The utility shall monitor the usage and billing payment record of participating customers. The utility shall also compile historic consumption and billing data for these customers as well as a list of specific conservation measures installed in order to provide a basis for evaluating the Program. This information shall be submitted to the Board for analysis by May 1;

7. Electric utilities shall provide seal-up to those eligible participating customers who heat with electricity or any fuel other than natural gas in accordance with the existing Board approved low income seal-up programs;

8. Electric utilities shall not be required to provide the seal-up to those customers who heat with natural gas. The electric utilities shall forward the names of these gas heating customers to the appropriate gas utility for processing. Gas utilities shall not provide seal-up to those eligible customers who do not heat with natural gas but shall forward the names of non-gas heating customers to the appropriate electric utility for processing;

9. Tenants shall be required to secure landlord permission for the weatherization work. A landlord consent form, or the means to obtain one shall be forwarded to customers along with the descriptive information and Winter Termination Program fact sheet as required in (h)1 above;

10. The utility may utilize the services of the local Community Action Program (CAP) Agencies or other local social service organizations, to certify the economic eligibility for the low income seal-up programs for those customers who seek the protection of the Winter Termination Program because they are unable to pay their utility bills because of circumstances beyond their control. This option shall be related solely to the economic eligibility of a customer for the low income seal-up programs and shall not be utilized as a means of determining the eligibility of a customer for protection under the Winter Termination Program. Economic eligibility for the seal-up measures for these customers shall be determined by those standards applicable to the low income seal-up programs as established and approved by the Board;

11. As participation in the low income seal-up programs is a continued program eligibility requirement, the utility shall refer to the Board, for purposes of an administrative review, the names of all protected customers who refuse such participation. Pending said administrative review, the utility shall not unilaterally discontinue service for failure to participate in the low income seal-up programs. Discontinuance for said failure to participate shall not occur unless authorized by the Board. Tenants who are unable to obtain appropriate landlord/owner permission shall not be considered to have refused participation in the low income seal-up programs. The utility shall provide the Board with the names and addresses of those tenants who have indicated their inability to obtain landlord/owner consent.

(i) An electric or gas utility may terminate service to a customer who is eligible for the Winter Termination Program if said customer connects, disconnects or otherwise tampers with the meters, pipes, wires or conduits of the utility for the purpose of obtaining electric or gas service without payment therefor.

4. A utility infrastructure plan, which may cover a period of time up to five years, describing all infrastructure the regulated entity estimates will be needed, including cost estimates;

5. A one-year work plan for the first year of the TRIP, which provides specificity and detail regarding the work the regulated entity intends to complete in the first year of the TRIP, including maps detailing where the work is to be done, and a breakdown of estimated costs;

6. A demonstration of how the work proposed in the utility infrastructure plan in (b)4 above is necessary to provide service to the development anticipated in (b)3 above; and

7. Any other information necessary to evaluate whether the petition submitted by a particular regulated entity and municipality complies with this subchapter.

(c) When submitting a petition for initial approval of a TRIP, a regulated entity shall comply with the notice requirements for petitions at N.J.A.C. 14:1-5.12.

(d) The Board shall provide notice of its receipt of the petition for initial approval of a TRIP on the Board's webpage at www.bpu.state.nj.us, and will make the petition available for public inspection.

(e) The Board shall approve a TRIP on a year-by-year basis. The Board's initial approval of the TRIP shall authorize the regulated entity to implement the construction detailed in the one-year work plan submitted under (b) above. Each year, the Board shall review the construction proposed for the following year and shall determine whether to approve it.

(f) Because the purpose of a TRIP is to provide data and case studies to guide the Board in future smart growth policy making, the Board may deny a petition for approval of a TRIP if the Board determines that it has sufficient data, that the TRIP is not likely to provide the information the Board needs, or that previously approved TRIP pilots are not successfully meeting their intended purpose.

(g) Once the Board has approved a TRIP pilot, the regulated entity shall begin infrastructure investments in accordance with the activities in the first one-year work plan, as approved by the Board under this section. If a developer or new customer requests service for a new development in the TRIP area during the time frame covered by the TRIP pilot, the regulated entity shall build the necessary infrastructure and shall not charge the applicant or require a deposit, provided that:

1. The development to be served is consistent with the municipal plans, zoning and ordinance submitted to the Board as part of the TRIP petition; and

2. The new infrastructure is consistent in timing and content with the one-year work plan for that year, which the Board approved under this section. If the infrastructure is included in the overall utility infrastructure plan de-

scribed in (b) above, but was not submitted as part of the one-year work plan, the regulated entity shall build the necessary infrastructure without charge to the applicant and shall not require a deposit. The regulated entity shall include this cost as an additional cost in the annual TRIP adjustment petition, described in N.J.A.C. 14:3-10.5. The regulated entity shall maintain detailed records of expenditures on infrastructure constructed in the TRIP area.

14:3-10.5 Annual TRIP adjustment petition

(a) After eligible investments have begun, the regulated entity and the municipality shall submit an annual TRIP adjustment petition to the Board in a format provided by the Board and shall include the following types of information:

1. Detailed descriptions of all eligible investments and the development, existing and prospective, served by infrastructure constructed under the TRIP;

2. The amount of new utility service capacity provided by the investments;

3. A one-year work plan for all infrastructure construction planned for the forthcoming year under the TRIP, and the estimated cost of this infrastructure, consistent with N.J.A.C. 14:3-10.4(b)5;

4. Any changes in zoning laws, development or redevelopment plans, or other requirements relevant to development in the TRIP area, that have occurred since the TRIP was initially approved;

5. An accounting of the type and size of new development that is being served (housing, commercial, industrial, number of units, jobs, office space) in the TRIP area;

6. An update of the utility infrastructure plan submitted under N.J.A.C. 14:3-10.4(b), showing any changes necessitated by changes in development patterns, municipal plans or zoning, or any other causes. The updated utility infrastructure plan shall be consistent with all local plans and ordinances, and with the State Plan; and

7. The proposed TRIP charge, determined in accordance with N.J.A.C. 14:3-10.7, and detailed information demonstrating that the proposed TRIP charge meets the requirements at N.J.A.C. 14:3-10.7. Such information shall support the TRIP charge calculation with documentation, detailed financial analyses, and other relevant information showing all assumptions and calculations. All of this supporting financial information shall be presented in such a way as to allow the Board to evaluate whether the calculations meet all requirements of this subchapter.

(b) When submitting an annual TRIP adjustment petition, a regulated entity shall comply with the notice requirements for petitions at N.J.A.C. 14:1-5.12.

(c) The Board shall review each annual TRIP adjustment petition, and shall determine:

1. Whether the completed investments meet the requirements in this subchapter;

2. Whether the regulated entity's proposed TRIP charge meets the requirements at N.J.A.C. 14:3-10.7;

3. Whether the updated utility infrastructure plan remains consistent with all local plans and ordinances, with the State Plan, and with N.J.A.C. 14:3-10.1 through 10.5; and

4. Whether to approve an additional year of the TRIP.

(d) In determining whether to approve an additional year of the TRIP, the Board shall consider, at a minimum, the following:

1. Whether the regulated entity completed previously authorized TRIP investments in accordance with this subchapter, and if not, why not;

2. Whether, in light of local and regional economic and development trends, the planned and prospective development called for in the municipal plans continues to be prudent and likely, and therefore whether the regulated entity's planned infrastructure investments continue to be prudent; and

3. Whether the planned and prospective development continues to be consistent with the State Development and Redevelopment Plan and all applicable local plans and laws.

(e) The Board may condition participation in the TRIP for a subsequent year on modifications to the updated utility infrastructure plan and the proposed work plan for the upcoming year, to ensure consistency with this subchapter.

14:3-10.6 Termination of a TRIP

(a) The regulated entity shall stop assessing the TRIP charge at the earlier of the following:

1. When the infrastructure covered by the TRIP charge is fully depreciated; or

2. At the conclusion of the next rate case for the regulated entity.

(b) If at any time the Board determines that the municipal master plan or zoning and ordinances are no longer consistent with the State Plan or principles of smart growth, or if the State Planning Commission revokes the previously granted plan endorsement pursuant to N.J.A.C. 5:85-7.13, all activities under the TRIP shall stop within three months after the Board determination or the Commission's revocation, whichever is earlier.

(c) If the Board finds at any time that a regulated entity is not in compliance with the TRIP as approved, or if there is a material change in development patterns, economic trends, or other trends relevant to the prudence of the planned

development to be served by infrastructure constructed under the TRIP, the Board may cancel the TRIP approval upon three months notice to the regulated entity.

(d) If a TRIP terminates under (b) or (c) above, the following shall apply, as applicable:

1. The regulated entity may continue to assess the TRIP charge for any investments made under the TRIP prior to the termination;

2. The regulated entity shall not use a TRIP charge to pay for any investments made after the TRIP is terminated; and

3. If an applicant requested an extension prior to the termination of the TRIP, which would have been covered under the TRIP, the regulated entity shall not require the applicant to provide a deposit for the extension, but may require the applicant to furnish a deposit for any additional work not requested prior to the termination of the TRIP.

(e) If the Board has not adopted a permanent TRIP to replace the pilot TRIP within five years after initial approval of a regulated entity's TRIP pilot, the regulated entity shall stop initiating infrastructure investments under the TRIP.

14:3-10.7 Calculating the TRIP charge

(a) When a regulated entity has submitted a TRIP adjustment petition in accordance with N.J.A.C. 14:3-10.5, the Board shall determine the amount of the TRIP charge in accordance with this section.

(b) The Board shall set the amount of a TRIP charge at a level that will provide the regulated entity with the following:

1. A return on eligible TRIP investments, offset by accumulated depreciation and accumulated deferred income taxes, and adjusted for taxes. The return shall be set at the rate for seven year constant maturity treasuries, as shown in the Federal Reserve Statistical Release published on or closest to August 31, plus 60 basis points; and

2. Recovery of depreciation expense on the eligible investments, calculated using the regulated entity's overall composite depreciation rate in effect for that class of assets.

(c) The TRIP charge shall be subject to the following limits:

1. The TRIP charge shall be calculated and assessed on a per unit of service basis. The TRIP charge per unit of service shall be the same for all applicable customers while the TRIP charge is in effect. For all regulated entities except for water utilities, applicable customers shall be those customers from which a regulated entity is authorized to assess the Societal Benefits Charge (SBC) in accordance with N.J.S.A. 48:3-60. For water utilities, applicable customers shall be all customers;

2. The TRIP charge shall not allow a regulated entity to earn in excess of its allowed return on common equity, as determined by the Board in the most recent base rate case for that regulated entity. Amounts not recoverable under this paragraph shall not be deferred;

3. The TRIP charge shall not be set at a level that results in a charge to residential customers that is greater than one percent of the average bill of a typical residential customer for that regulated entity; and

4. Any other limits or conditions necessary to ensure that the TRIP charge complies with (b) above.

(d) All TRIP charge calculations shall be supported as required under N.J.A.C. 14:3-10.5(a)7.

(e) The TRIP charge shall be calculated annually using the following formula:

$$\frac{(ERI-ADEP-ADIT) * ATCR * RAF + ERI * DEP + PP}{PT}$$

For the purposes of the above formula, the following terms are defined as follows:

1. "TRIP charge" means the charge that the Board authorizes the regulated entity to assess from each applicable customer to pay for approved ERI, as defined at (e)2 below, made under the TRIP;

2. "ERI" means the total accumulated eligible revitalization investments that:

i. Are eligible for TRIP coverage under N.J.A.C. 14:3-10.3;

ii. Have accumulated from the beginning of the first investment year (see (e)3 below for a definition of investment year); and

iii. Have been placed in service prior to the end of the most recent investment year;

3. "Investment year" means a period during which the regulated entity makes investments in infrastructure under the TRIP. The first investment year shall begin on the effective date of the initial Board order approving the TRIP, or on another date set forth in the Board order. The first investment year shall end one year later, or on a date specified by the Board. Each subsequent investment year shall run for one year, starting on the date after the end of the previous investment year;

4. "ADEP" means the total accumulated depreciation that the regulated entity has recovered through TRIP on the ERI. For example:

i. For the first annual TRIP adjustment, the ADEP would be zero;

ii. For the second annual TRIP adjustment, the ADEP would be (ERI made during the first investment year) x DEP (see (e)8 below for definition of DEP); and

iii. For the third annual TRIP adjustment, the ADEP would be ((ERI made during the first Investment Year) x DEP) + (ERI made during the first and second Investment Years) x DEP);

5. "ADIT" means the total accumulated deferred income taxes, which are attributable to the difference between the regulated entity's book depreciation expense and the tax depreciation expense associated with ERI under the TRIP;

6. "ATCR" means the after tax cost rate, which shall be calculated by multiplying the return on ERI under the TRIP by (1 minus the income tax rate that applies to the regulated entity). The return shall be the rate for seven-year constant maturity treasuries, as shown in the Federal Reserve Statistical Release published on or closest to the August 31 immediately prior to the annual TRIP adjustment approval, plus 60 basis points. For example:

i. If the return on ERI (that is, the rate for seven year constant maturity treasuries) is five percent, and the Federal Income Tax Rate is 35 percent, and the Corporate Business Tax is nine percent, the ATCR will be 3.31 percent. This is calculated using the combined income tax rate of 40.85 percent $[(0.09 * 1) + (0.35 * (1 - 0.09))]$, using the above formula as follows $(5 \text{ percent} + .6 \text{ percent}) * (1 - 40.85 \text{ percent})$;

7. "RAF" means the revenue adjustment factor that was set by the Board in the regulated entity's last rate case, updated for changes in taxes and assessments.

8. "DEP" means the depreciation rate applicable to ERI, as defined above. The DEP shall be the composite depreciation rate for each class of ERI, as determined by the Board in the regulated entity's most recent rate case;

9. "PP" means the amount over or under-recovered by the regulated entity through the TRIP charge during the prior recovery year;

10. "Recovery year" means the annual period beginning on a date set by the Board during the first TRIP charge adjustment proceeding. Each subsequent recovery year shall run for one year, starting on the day after the end of the previous recovery year;

11. "PT" means the firm throughput to applicable customers, which is projected to occur during the next recovery year, in therms, kwh, or gallons; and

12. "Applicable customers" means those gas and electric customers from whom a regulated entity is authorized to assess the Societal Benefits Charge (SBC), and all water customers.

(f) The amount derived from the formula described above shall be rounded to the nearest 1/100th of a cent per unit of throughput in therms, kwh, or gallons.

Amended by R.2005 d.265, effective August 15, 2005.
36 N.J.R. 5655(a), 37 N.J.R. 3046(b).
Rewrote (b)1, added (e) and (f).

SUBCHAPTER 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.