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

Executive Order No. 66(1978) Expiration Date

Chapter 3, All Utilities, expires on February 3, 2002.

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: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS

14:3–1.1 Words defined

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

"Board" means the Board of Public Utilities of New Jersey.

"Customer" means any person, partnership, firm, corporation, governmental subdivision or agency receiving service from any such utility.

"Residential customer" means an individual person(s) who applies for utility service to be billed in his or her name, pays a security deposit, if appropriate and requested, and accepts responsibility for payment of any utility service provided.

"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".

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).

SUBCHAPTER 2. PLANT

14:3–2.1 Plant construction

(a) The construction and installation of plant and facilities of the utilities must be in accordance with standard utility practice. Each utility shall make reasonable efforts to protect the public and its property from injury or damage and shall exercise due care to reduce hazards to which employees, customers, and the general public may be subjected by reason of its equipment and facilities.

(b) The various utilities should cooperate to the greatest extent practicable to reduce or eliminate interference among the different systems.

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), inserted "utility" following "accordance with standard".

Case Notes

Electric utility practiced prudent field management in choosing site for proposed distribution substation. In Matter of Appeal of Atlantic City Electric Company, 93 N.J.A.R.2d (BRC) 75.

(e) On every August 15 and February 15, all electric and gas utilities shall file with the Board a report containing the following information:

1. Those municipalities which requested the list referred to in (a) above and those which have not requested the list as of the date of the report;

2. Those enforcing agencies referred to in (a) above enforcing the Uniform Fire Code which requested the list referred to in (a) above.

3. Any additional information which the Board in its discretion may require in writing or the public utility may wish to submit.

R.1979 d.352, effective October 10, 1979.
See: 11 N.J.R. 522(c).
Amended by R.1986 d.242, effective July 7, 1986.
See: 18 N.J.R. 463(a), 18 N.J.R. 1401(a).
(a) added text ", and/or any ... within the municipality"; added (e)2.
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
In (b)4, included Friday as a day on which residential service may not discontinued for nonpayment.

14:3–7.16 Diversion of service

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

"Beneficiary" is the person, corporation or other entity financially benefiting from the service.

"Diversion" is an unauthorized connection to pipes and/or wiring by which utility service registers on the tenant customer's meter although such service is being used by other than the tenant-customer of record without his or her knowledge or cooperation. The unauthorized connection must not be apparent from the premises.

"Landlord" means both those persons, corporations or other entities who currently lease residential dwellings, as well as condominium associations or other owners' associations in instances where occupants own their premises in a multi-family building.

"Premises" are those areas of the residence where service outlets are visible and under the direct control of the tenant-customer of record.

"Tenant-customer" is a residential customer of record at the time of the complaint who rents a dwelling unit in a multi-family building or owns a condominium.

"Utility" or "company" means those public electric and/or natural gas utilities under the jurisdiction of the Board of Public Utilities.

(b) Each electric and/or gas utility shall file tariff amendments to provide that tenant-customers shall not be required to pay for service supplied outside their premises without the tenant-customers' consent.

(c) Each electric and/or gas utility shall notify tenant-customers who apply for service that if the utility's tariff provides for billing through one meter for the tenant-customers' own usage and for service diverted outside the tenant-customers' premises, the tenant-customers may not be required to pay for such diverted service absent their consent or cooperation for such service.

(d) Investigation of alleged diversions shall be conducted as follows:

1. Where a tenant-customer alleges in good faith that the level of consumption reflected in his or her utility bill is unexplainably high, the tenant-customer may request the utility supplying gas and/or electricity to conduct a diversion investigation at no cost to the customer. Such request shall be made in writing by the tenant-customer by completing and returning to the utility a diversion investigation application provided by the utility. The application shall state that the utility may bill the customer for the cost of the second investigation within a 12–month period that fails to uncover the utility diversion. The utility must investigate the alleged diversion within two months of the receipt of the investigation request. Each diversion investigation must include a meter test conducted in accordance with N.J.A.C. 14:3–4.5.

i. The utility shall have the right of reasonable access pursuant to N.J.A.C. 14:3–3.8. For purposes of utility access, the alleged diversion is presumed to constitute a hazardous condition until the utility investigates.

ii. If as a result of such investigation, the utility determines that the service from the pipes and/or wires serving the tenant-customer, has been diverted, the utility shall notify the landlord or his or her agent and instruct him or her to correct the diversion within 30 days through rewiring or repiping. However, this provision shall in no way prohibit a utility from disconnecting service if the utility determines that an unsafe condition exists.

2. The utility shall attempt to determine the identity of the beneficiary.

i. A tenant-customer seeking relief shall be responsible for furnishing to the utility the identity and address of the landlord or agent, and of the beneficiary, if known;

ii. Additionally, the tenant-customer shall provide any other information which may assist the utility in its investigation.

3. The utility shall furnish to the tenant-customer, the tenant-customer's landlord, and to the beneficiary (if different from the landlord) within 14 days of the investigation, a written report on the findings of the investigation.

This report shall include information on the estimated cost of diverted service based upon prior use, degree day analysis, load study and/ or cooling degree hours, whichever is appropriate. If the utility locates a diversion, the utility shall attempt to reach an agreement with the parties involved or, in lieu of such agreement, proceed to the conference described in (f) below. If no diversion is located, these diversion proceedings shall end when the utility has completed and filed its investigation report pursuant to (j) below.

(e) Utility service shall be continued as follows:

1. As of the date of the tenant-customer's allegation, the utility shall continue the tenant-customer's service provided the tenant-customer pays (or makes an agreement to pay) amounts not in dispute.

2. A utility may not terminate service to a customer involved in a diversion dispute until one of the following has occurred, whichever is latest:

i. Four weeks have elapsed after the conference described in (f) below and no Board intervention has been sought; or

ii. The Board has rendered a decision on a formal petition, or Board staff has rendered a decision on an informal complaint if either is filed as described in (h) below.

(f) If an agreement has not been reached within two weeks of the completion of the utility's investigation, the utility shall invite the landlord, tenant-customer, beneficiary and any other parties which it has reason to believe may be involved with the diversion to a conference with a company representative. Reasonable efforts shall be made to hold the conference within 30 days of the investigation at a mutually convenient time and place.

1. Prior to the conference, the utility shall attempt to have the landlord correct the diversion through rewiring and/or repiping. If the landlord or his or her agent fails to appear or to eliminate the diversion, or if the beneficiary fails to appear, the utility shall adjust the beneficiary's billing and future bills by the process described in (g) below. The utility may also refuse to establish utility service for any new tenant of the landlord if the diversion remains uncorrected and the tenant-customer moves from the premises.

2. At the conference, the parties shall negotiate the adjusted billing and payments pursuant to (g) below.

3. At the conference, the utility shall have the burden of presenting the results from the investigation and seeking remuneration from the beneficiary.

4. If the diversion has not already been corrected, an attempt shall be made at the conference to have the landlord or his or her agent to file an agreement with the tenant-customer and the utility that necessary correction to the facilities shall be made within a specified time.

5. At the conference the utility shall provide all parties with a copy of these regulations.

6. The utility shall provide to all parties within two weeks of the date of the conference a detailed summary of the conference which shall include determinations, conclusions, a copy of the investigation report and the names of the participants.

(g) After the conference, billing where diversion has occurred shall be adjusted as follows:

1. The tenant-customer whose service has been diverted by another party shall be billed by the utility only for service used, based upon the estimation contained in the investigation report described in (d)3 above.

2. Where the utility can locate a diversion but not the beneficiary, the tenant-customer shall not be liable for the diverted service. Where the beneficiary can be identified, liability shall be imposed as follows:

i. If the beneficiary is currently a customer of the utility on another account, the utility shall bill that beneficiary for the amount the utility estimates is attributable to the diversion plus all related expenses incurred by the utility in accordance with the company's tariff.

ii. If the beneficiary is not a customer of the utility, the utility may bill that beneficiary for the excess usage which is not attributable to the tenant-customer plus all related expenses incurred by the utility.

3. In cases where the diversion of gas or electricity is a result of a construction error in the pipes and/or wires which was not the responsibility of the beneficiary or landlord, the account of the tenant-customer involved shall be adjusted to charge only for service used based upon a prior use, degree day analysis, load study and cooling hours whichever is appropriate.

4. In instances where the tenant-customer benefited from or cooperated in the diversion, the utility may collect from the tenant-customer of record for the diverted service plus that portion of the related expenses incurred by the utility in accordance with the company's tariff.

5. The utility may permit the beneficiary to amortize the amount due for the diverted service. In cases of diversion due to construction error, the company may allow the customer to amortize the amount due for the diverted service in equal installments over a period of time equal to the period of the diversion, for up to a maximum of four years.

6. Billings shall be corrected retroactively to the most recent of the following dates:

i. The date of the beginning of the diversion;

ii. The date of the beginning of the tenancy; or

iii. The date four years prior to the date of the tenant-customer's diversion complaint.

(h) If an agreement cannot be reached at the conference, the landlord, tenant-customer and beneficiary shall be advised by the utility that, within three weeks of the date on which the conference summary is available, they may request Board intervention.

(i) Each electric and/or gas utility shall send the following notice to its tenant-customer with the tenant-customer's initial bill and annually thereafter: "Pursuant to Board of Public Utilities rules, no tenant-customer may be billed or disconnected for failure to pay for electric and/or gas service which was diverted outside of his/her premises without the tenant-customer's permission. Upon suspecting that his/her utility bill is unexplainably high because of a diversion of service, the tenant-customer should notify the utility immediately by calling the following number: _____."

(j) The utility shall keep records of diversion of service complaints and their resolution in accordance with the Board's existing rules governing customer record retention per N.J.A.C. 14:3–6.1 and 14:3–7.8. Each electric and/or gas utility shall annually report to the Board on the utilization of the diversion of service complaint proceedings provided for in (a) through (k) above. This report shall be provided on a Board-approved report format.

R.1983 d.526, effective November 21, 1983.
See: 15 N.J.R. 787(a), 15 N.J.R. 1949(a).
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Cross References

Basis of discontinuance of service, see N.J.A.C. 14:3–3.6.

Case Notes

Customer's electric bills were shown to be consistent with size of dwelling and number of appliances used. Elco v. Public Service Electric and Gas Company, 96 N.J.A.R.2d (BRC) 39.

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).

14:3–8.2 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 sewer 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 10–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 sewer 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

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.

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 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 to Utility	$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

(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 ... construction is complete." 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).

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.
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 ot 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

Authority

N.J.S.A. 48:2–13.

Source and Effective Date

R.1997 d.351, effective September 2, 1997.
See: 28 N.J.R. 4079(a), 29 N.J.R. 3845(a).

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 sewer utility and collected via the base rates of that sewer 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 sewer 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 Water Adjustment Clause" or "PWAC" means the methodology by which a water utility obtains recognition in its rates of an increase or decrease in the cost of water purchased by it from a water purveyor (see N.J.A.C. 14:9–7.2); or its successor clause.

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, except for Class B, C and D water and sewer utilities which 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.

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.