# CHAPTER 3

# ALL UTILITIES

### Authority

N.J.S.A. 48:2-13, 16, 17, 20, 23, 24, 27 and 76; 48:3-3, 48:3-7.8, 48:3-12, 48:5A-10, 48:5A-36, 48:13A-1, 48:19-17, 48:19-18 and 58:11-59.

### 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

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

### Chapter 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.

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

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, All Utilities, expires on January 27, 2008. See: 39 N.J.R. 4077(b).

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SUBCHAPTER 1. DEFINITIONS

**14:3-1.1 Definitions**

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

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

"Customer" means the person identified in the account records of a 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).

## 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.

Proposed transmission line necessary for service, convenience and welfare of public; transmission line exempt from municipal regulation. In Matter of Application of Jersey Central Power & Light Company, 92 N.J.A.R.2d (BRC) 43.

### 14:3–2.2 Inspection of work performed by contractors

To the extent necessary to assure compliance with safe practices, any construction work performed for a utility by contractors shall be inspected by a qualified representative of the utility before being placed in active service.

### 14:3–2.3 Foreign construction on utility poles

Each utility owning poles shall endeavor to prevent nonstandard foreign construction on poles owned by it. In other words, fire alarm and telephone, electric or trolley wires, or any other facilities, private or otherwise, should be located and attached in accordance with standard practice. When existing construction is replaced or changed, all nonstandard construction then in place shall be made to conform with this rule. In the event of disagreement with any municipality or other utility as to the necessity of changes or removals under this rule, the matter shall be submitted to the Board for determination.

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

### 14:3–2.4 Identification of buildings and structures

Each group of buildings or structures shall be provided with a sign displaying the name of the operating utility. This rule shall not apply to buildings or structures located on railroad rights-of-way.

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

### 14:3–2.5 Identification of poles or structures supporting wires; fire hydrants

(a) Each utility owning solely or jointly poles or structures supporting wires along or over public highways or fire hydrants shall properly mark each such pole, structure or fire hydrant with the initials of its name, abbreviation of its name, corporate symbol or other distinguishing mark or code by which ownership may be readily and definitely ascertained, and with number or symbol or both by which the location of each such pole, structure or fire hydrant may be determined on office records. Such markings may be made with paint, brand or with a soft metal plate and the characters of the mark shall be of such size and so spaced and hereafter maintained as to be easily read.

(b) In the case of two or more utilities jointly owning any structures, the distinguishing mark or number of each utility shall be placed on such structures but not necessarily more than one number shall be placed thereon. The numbering may be in accordance with a code which will indicate joint ownership.

(c) In the case of such structures carrying or supporting overhead trolley wires, where there is a double line of such structures, one on each side of the track, such mark need be affixed to but one line of such structures.

(d) In the case of such structures erected upon private rights-of-way or on public highways of such character that the construction may be deemed to be a through or trunk line, such mark need be affixed only to every fifth structure; provided, however, that each and every structure situated within the limits of any built-up community shall be marked, except as otherwise provided in (c) above. This subsection shall not be deemed to require the marking of railroad structures located on railroad rights of way.

(e) The requirements in this Section shall apply to all existing and future structures erected and to all changes in ownership and name.

(f) Each such utility shall have available a statement showing:

1. The initials, abbreviations of name, corporate symbol or distinguishing mark;

2. The means of marking employed;

3. The method followed in numbering structures within the limits of cities, towns or other built-up communities, and upon through or trunk lines.

(g) Each utility shall make reasonable efforts to prevent the placing upon its pole of any marks, signs, placards, bulletins, notices, or any other foreign object other than as provided in N.J.S.A. 27:5–1 (Advertising on highways and private property prohibited; penalty) and as prescribed 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).

### 14:3–2.6 Maintenance of plant, equipment and facilities

Every utility shall have and maintain its entire plant in such condition as will enable it to furnish safe, proper and adequate service.

### 14:3–2.7 Inspection of property

(a) Each utility shall inspect its equipment and facilities at sufficiently frequent intervals to disclose conditions, if existing, which would interfere with safe, adequate and proper service, and shall promptly take corrective action where conditions disclosed by such inspection so warrant.

(b) Whenever any equipment is removed from the system for any reason, it shall be inspected as to safety and serviceability before being reinstalled in the same or other locations.

(c) Each pole, post, tower or other structure shall be inspected by the utility owning or using it with sufficient frequency and comprehensiveness to disclose the necessity for replacement or repair in order to ensure safe, adequate and proper service.

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

### 14:3–2.8 Construction work near utility facilities

(a) A utility shall endeavor, to the extent feasible and practicable, to obtain prompt notice and information concerning commencement and progress of construction work in close proximity to its facilities through its qualified employees, or through contractors, government agencies, or others who may be permitted to perform construction work within the confines of its territory.

(b) As provided in the "Underground Facility Protection Act," N.J.S.A. 48:2–73 et seq., and N.J.A.C. 14:2, all owners or operators of underground facilities, including utilities, shall enroll for membership in the One–Call Damage Prevention System. In addition, all persons, including natural persons, firms, organizations, partnerships, associations, corporations, trustees and receivers, including utilities, who engage in excavation or demolition activities must, prior to commencing either excavation or demolition activities, contact the One–Call Damage Prevention System in order that the owners or operators of underground facilities may properly markout the location of such facilities. Utilities that utilize the services of contractors to engage in excavation or demolition activities shall ensure that said contractors are aware of their responsibilities, as excavators, to appropriately contact the One–Call Damage Prevention System prior to commencing their excavation or demolition activities.

(c) Nothing in this section shall affect the duties and obligations of persons working in the vicinity of high voltage lines as set forth in N.J.S.A. 34:6–47.1 or working in the vicinity of gas facilities as set forth in N.J.S.A. 2A:170–69.4 et seq.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Subdivided section and inserted (b).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Rewrote (b).

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## SUBCHAPTER 3. SERVICE

### 14:3–3.1 Duty

(a) It shall be the duty of every utility to furnish safe, adequate and proper service, including furnishing and performance of service in a manner that tends to conserve energy resources and preserve the quality of the environment.

(b) Accordingly, it is the proper function and continuing duty of utilities as defined in N.J.A.C. 14:3–1.1 to suggest and develop conservation proposals for presentation to the Board. Electric and gas utilities shall comply with the Board's rules pertaining to demand side management as set forth in N.J.A.C. 14:12. The rules which follow do not limit this continuing duty nor other duties now imposed upon the utilities, but merely serve to define such duties and to establish standards for their performance.

Amended by R.1975 d.305, effective October 17, 1975.
See: 7 N.J.R. 277(b), 7 N.J.R. 510(b).
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), inserted provision requiring compliance with demand side management rules.

**Case Notes**

Curtailment of service found to be a violation of service standard; curtailment improper as not accordance with agreement and inadequate and unsafe as resulting in a health hazard; violation of curbside pickup ban constituted improper service. Bd. of Public Utilities v. Hamm's Sanitation, Inc., 2 N.J.A.R. 59 (1979).

Capital improvement program found necessary to provide safe, adequate and proper service. In re: Califon Water Co., 1 N.J.A.R. 414 (1980).

### 14:3–3.2 Applications

(a) Applications by a customer for the establishment of service may be made at the utility's office either in person, by regular mail, facsimile transmission, electronic mail, where available, or by telephone. If the utility requires a written application, the application may be subsequently submitted to the customer for signature.

1. A utility shall not place the name of a second individual on the account of a residential customer unless specifically requested by said second individual.

2. A utility shall advise a customer of the rate schedule most applicable to that customer and suggest a change in rate schedule, if and when appropriate.

(b) When a customer makes application for service to any utility and the service requested is supplied by another utility, the company shall advise the customer when possible of the appropriate utility to whom the application should be made.

(c) All applications to water utilities for fire protection service must request that the applicant supply the name and address of the insurance company that provides the applicant with fire protection insurance for the property listed on the application as well as the number of the policy itself.

(d) A utility may require proof of identity with an application for service. An applicant for service may provide any one of the following items to establish identity:

1. A valid driver's license;
2. Employment identification;
3. An unexpired foreign passport;
4. A U.S. passport;
5. An alien registration card with photograph;
6. A county identification card;
7. A county welfare identification card;
8. A student identification card; or
9. A military identification card.

(e) A utility may require proof of prior address with an application for service. An applicant for service may provide any one of the following items to establish prior address:

1. A notarized lease, deed, or letter from the prior landlord;
2. A current auto insurance policy;
3. A bank statement;
4. A credit card statement;
5. Mailing envelopes addressed to the applicant at the previous address, post-marked no later than two months prior to the date of application; or
6. A letter of credit worthiness from a utility.

(f) Within two business days of receipt of the customer's application for utility service, or on a mutually agreed upon date, the utility shall initiate the service except in those cases where the utility or customer must install or contract to install service lines to the structure where said service shall be received.

Amended by R.1991 d.144, effective May 6, 1991.
See: 22 N.J.R. 615(d), 23 N.J.R. 1445(a).
Established what items may be used as proof of identity and as proof of prior address.
Amended by R.1992 d.456, effective November 16, 1992.
See: 24 N.J.R. 2341(a), 24 N.J.R. 4271(a).
New (c) added requiring applications to request name and address of fire protection insurance company and policy number; recodified (c) and (d) as (d) and (e).
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 references to fax and e-mail; added (a)1 and (a)2; in (e)1, substituted "prior landlord" for "present landlord"; and added (f).
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 "application" for "same" preceding "may be" in the introductory paragraph and substituted "a customer" for "customers" preceding "of the rate schedule" and "that" for "said" in 2.

### 14:3–3.3 Customer information

(a) Each utility shall, upon request, furnish its customers with such information as is reasonable in order that the customers may obtain safe, adequate and proper service. All utility customers shall be given a copy of the "Customer Bill of Rights" approved by the Board, effective at the time of service initiation. Said copy shall be presented no later than at the time of the issuance of the customer's first bill or 30 days after the initiation of service, whichever is later.

(b) Each utility shall inform its customers, where peculiar or unusual circumstances prevail, as to the conditions under which sufficient and satisfactory service may be secured from its system.

(c) Each utility shall file with the Board, and keep open to public inspection, tariffs applicable to the service area.

(d) Each utility shall supply its customers with information on the furnishing and performance of service in a manner that tends to conserve energy resources and preserve the quality of the environment, which shall include, but not be limited to, the duty to inform customers:

1. That there is a national and local need for the conservation of all types of energy resources by industrial, commercial and residential customers;

2. That such conservation, if widely practiced, particularly at periods of peak demand, will reduce or defer the need for the expansion of utility generating and transmission capacity, with attendant public benefits in land use, environmental quality and public health and safety;

3. That the utility will continue to develop and implement other conservation programs which will be promoted and advertised as provided for herein;

4. That the information shall be distributed to the public by the following means:

i. Extensive advertising by public media, including newspapers, periodicals, television and radio;

ii. The use of outdoor signs and messages, including posting on utility vehicles and facilities, and common carriers;

iii. By direct mailing, at no direct charge to customers, informational booklets detailing methods for conserving energy resources and any other information pursuant to this Subchapter which the Board may from time to time require.

5. That no utility may distribute to the public, advertise or otherwise disseminate information for the purpose or with the effect of encouraging or promoting the consumption of energy resources in a manner inconsistent with these rules.

Amended by R.1975 d.305, effective October 17, 1975.
See: 7 N.J.R. 277(b), 7 N.J.R. 510(b).
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 reference to Customer Bill of Rights; in (c), deleted reference to service line tariffs; deleted (d)3, relating to installing ceiling insulation; and recodified former (d)4 through (d)6 as (d)3 through (d)5.

Case Notes

State regulation preempted local regulation; commercial tenants responsible to pay their own individual bills. In Re Complaint by Rotella, 92 N.J.A.R.2d (BRC) 48.

Change in bill format rejected; determination of complex rate increase petition. In re: Public Service Electric & Gas Co., 6 N.J.A.R. 633 (1981).

**14:3–3.4 Permits**

The utility, where necessary, will make application for any street opening permits for installing its service connections and shall not be required to furnish service until after such permits are granted. The municipal charge, if any, for permission to open the street shall be paid by the customer.

**14:3–3.5 Refusal to connect**

(a) A utility may refuse to connect with any customer's installation when it is not in accordance with the standard terms and conditions of the tariff of the utility furnishing the service, which has been filed with and approved by the Board, and with the provisions of applicable governmental requirements.

(b) When, because of its size or character, the customer installation desired to be connected to the facilities of the utility is so unusual as to adversely affect the adequacy of the service furnished to other customers, present or prospective, the utility may require special provisions for the service in question or may refuse the same.

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 reference to Board approval.

**14:3–3.6 Basis of discontinuance of service**

(a) The utility shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

1. For the purpose of making permanent or temporary repairs, changes or improvements in any part of its system;

2. For compliance in good faith with any governmental order or directive notwithstanding such order or directive subsequently may be held to be invalid;

3. For any of the following acts or omissions on the part of the customer:

i. Nonpayment of a valid bill due for service furnished at a present or previous location. The customer(s) of record whose name(s) appear on the bill shall be held responsible for utility service rendered. However, nonpayment for business service shall not be a reason for discontinuance of residential service, except in cases of diversion of service pursuant to N.J.A.C. 14:3–7.16, and service shall not be discontinued for nonpayment of repair charges, merchandise charges, installation of conservation measures and other non-tariff contracted service charges between the customer and the utility, nor shall notice threatening such discontinuance be given;

ii. Tampering with any facility of the utility;

iii. Fraudulent representation in relation to the use of service;

iv. Customer moving from the premises, unless the customer requests that service be continued;

v. Providing a utility's service to others without approval of the utility;

vi. Failure to make or increase an advance payment or deposit as provided for in these rules or the utility's tariff;

vii. Refusal to contract for service where such contract is required;

viii. Connecting and operating in such manner as to produce disturbing effects on the service of the utility or other customers;

ix. Failure of the customer to comply with any reasonable standard terms and conditions contained in the utility's tariff;

x. Where the condition of the customer's installation presents a hazard to life or property;

xi. Failure of customer to repair any faulty facility of the customer;

4. For refusal of reasonable access to customer's premises for necessary purposes in connection with rendering of service, including meter installation, reading or testing, or the maintenance or removal of the utility's property.

(b) A customer wishing to discontinue service must give notice to that effect. Within 48 hours of said notice, the utility shall discontinue service or obtain a meter reading for the purpose of calculating a final bill. Where such notice is not received by the utility, the customer shall be liable for service until the final reading of the meter is taken. Notice to discontinue service will not relieve a customer from any minimum or guaranteed payment under any contract or rate.

(c) Public utilities shall not discontinue residential service except between the hours of 8:00 A.M. and 4:00 P.M. Monday through Thursday, unless there is a safety related emergency. There shall be no involuntary termination of service on Fridays, Saturdays, and Sundays or on the day before a holiday or on a holiday absent such emergency. Except for the provisions of N.J.A.C. 14:3–7.17(b) and (c) related to the termination of basic and nonbasic residential local telephone services, respectively, no utility shall discontinue service unless the customer's arrearage is more than $50.00 or the account is more than three months in arrears. No utility shall terminate service for nonpayment of bills rendered, unless:

1. It has confirmed that appropriate payment has not been received at any office of the utility or at any office of an authorized agent through the end of the notice period;

2. It has confirmed on the day on which termination may occur, that payment has not been posted to the customer's account at the opening of business on that day;

3. Before termination of residential service, the electric or gas utility representative shall notify an adult occupant of the premises or leave a sealed note in the event that no adult is on the premises. The note shall include information as to how the customer's service may be reconnected;

4. If a residential customer offers payment of the full amount or a reasonable portion of the amount due at the time of termination, a utility representative shall be required to accept payment without discontinuance of service. Whenever such payment is made, the utility representative shall provide the customer with a receipt showing the date, account number, customer's name and address and amount received;

5. Whenever the high temperature forecast to be 32 degrees Fahrenheit or below during the next 24 hours, electric and gas utilities shall not, within any portion of their service territories, disconnect residential service for nonpayment of a delinquent account, failure to pay a cash security deposit or guarantee, or failure to comply with the terms of a deferred payment plan. The utilities may rely on forecasts obtained from national weather stations covering their utility facilities, including the Newark Weather Station and the Atlantic City Airport Weather Station; and

6. If a customer is eligible for the Winter Termination Program under N.J.A.C. 14:3–7.12A, and the high temperature is forecast to be 95 degrees Fahrenheit or more at any time during the following 48 hours, an electric utility shall not discontinue residential service to a customer for reasons of nonpayment of a delinquent account, failure to pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement. The utilities shall rely on forecasts obtained from national weather stations covering their utility facilities, including the Newark Weather Station and the Atlantic City Airport Weather Station. If a utility's service territory is covered by more than one national weather station, and these weather stations forecast different high temperatures, the utility shall rely on the highest forecast.

i. Nothing in this paragraph shall relieve the customer of any financial obligation to the electrical utility providing the service.

(d) Discontinuance of residential service for nonpayment is prohibited if a medical emergency exists within the premises which would be aggravated by a discontinuance of service and the customer gives reasonable proof of inability to pay. Discontinuance shall be prohibited for a period of up to two months when a customer submits a physician's statement, in writing, to the utility as to existence of the emergency, its nature and probable duration, and that termination of service will aggravate the medical emergency. Recertification by the physician as to a continuance of the medical emergency shall be submitted to the utility after 30 days. However, at the end of such period of emergency, the customer shall still remain liable for payment of service(s) rendered, subject to the provisions of N.J.A.C. 14:3–7.13. During the period of medical emergency, the customer shall pay telephone tolls which are in excess of the average bills of the six months preceding the first 30–day period.

1. The Board may extend the 60–day period for good cause. Such an extension shall be requested in writing by the customer and be accompanied by a current physician's note. Pending the Board's consideration and decision, utility service shall not be discontinued.

2. Public utilities may in their discretion delay discontinuance of residential service for nonpayment prior to submission of the physician's statement required by this subsection when a medical emergency is known to exist.

Amended by R.1978 d.155, effective May 16, 1978.
See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).
Amended by R.1983 d.526, effective November 21, 1983.
See: 15 N.J.R. 787(a), 15 N.J.R. 1949(a).
In (a)3i, added "except in cases of diversion of service pursuant to 14:3–7.16."
Amended by R.1991 d.145, effective May 6, 1991.
See: 22 N.J.R. 616(a), 23 N.J.R. 1446(a).
Prohibits discontinuance of service due to non-payment of repair charges, merchandise charges, and non-tariff contracted charges; limits utilities' discontinuance of residential service to Monday-Thursday, 8 A.M. to 4 P.M. except for safety related emergency.
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)3i, inserted provision on responsibility for service rendered and reference to conservation measures; in (b), inserted provision on discontinuance or meter reading within 48 hours; in (c), inserted $50 arrearage provision; added (c)1 through (c)5; and in (d)1, inserted provisions that extension request be in writing and that service not be discontinued pending Board decision.
Emergency amendment, R.2002 d.312, effective August 21, 2002 (to expire October 20, 2002).
See: 34 N.J.R. 3295(a).
Added (c)6.
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
In (c), rewrote the third sentence of the introductory paragraph.
Emergency amendment, R.2002 d.312, effective August 21, 2002 (expired October 20, 2002).
See: 34 N.J.R. 3295(a).
Deleted (c)6.
Amended by R.2004 d.12, effective January 5, 2004.
See: 35 N.J.R. 91(a), 36 N.J.R. 200(b).
In (c), added 6.

**Cross References**

Residential electric and gas service, winter termination program, see N.J.A.C. 14:3–7.12A.

**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.

State regulation preempted local regulation; commercial tenants responsible to pay their own individual bills. In Re Complaint by Rotella, 92 N.J.A.R.2d (BRC) 48.

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.

### 14:3–3.7 Basis for restoration

Service shall be restored within 12 hours upon proper application when the conditions under which such service was discontinued are corrected, and upon the payment of all proper charges due from the customer provided in the tariff of the utility when the payment is received at the utility or at an authorized payment center and the utility has received notice of the payment, or if the Board so directs when a complaint involving such matters is pending before it.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Inserted 24 hour deadline for service.
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.

### 14:3–3.8 Access to customer's premises

(a) The utility shall have the right of reasonable access to customer's premises, and to all property furnished by the utility, at all reasonable times for the purpose of inspection of customer's premises incident to the rendering of service, collection of coin boxes, reading meters, or inspecting, testing, or repairing its facilities used in connection with supplying the service, or for the removal of its property. The customer shall obtain, or cause to be obtained, all permits needed by the utility for access to the utility's facilities. Access to the utility's facilities shall not be given except to authorized employees of the utility or duly authorized governmental officials.

(b) In the case of defective service, the customer shall not interfere or tamper with the apparatus belonging to the utility but shall immediately notify the utility to have the defects remedied.

### 14:3–3.9 Interruptions; reporting threatened interruptions of service

(a) Each utility shall exercise reasonable diligence to avoid interruptions, curtailments or deficiencies (hereinafter referred to as interruptions) of service and, when such interruptions occur, service shall be restored as promptly as possible consistent with safe practice. Each utility shall keep a record for a period of one year of each reported interruption of service.

(b) Records of the major interruptions of service shall be kept in a manner suitable for analysis for the purpose of minimizing possible future interruptions and shall include the time, cause, and duration of the interruptions as well as the remedial action taken. Interruptions to service by reason of any act of God, accident, strike, legal process, or governmental interference, where service to customers is interrupted for at least two hours, in accordance with the chart below, shall be reported to the Board by each utility by the speediest means of communication available followed by a detailed written report.

| Customers Served | Customers Interrupted |
|---|---|
| 500 or less | 20 |
| 501 to 1,000 | 50 |
| 1,001 to 10,000 | 100 |
| 10,001 to 100,000 | 200 |
| 100,001 to 500,000 | 1,000 |
| 500,001 to 1,000,000 | 2,000 |
| 1,000,001 or more | 5,000 |

(c) However, interruptions to service made in accordance with provisions in interruptible service contracts between the utility and its customers need not be reported. Planned interruptions for operating reasons shall always be preceded by reasonable notice to all affected customers, and the work shall be planned so as to minimize customer inconvenience.

(d) Whenever any public utility shall be served by the State Highway Department with a notice pursuant to N.J.S.A. 27:7–26, or pursuant to any Executive Department directive, or shall otherwise be put upon notice of any facts, actual or threatened, which in either event may adversely affect its ability to render safe, adequate and proper service, such public utility shall forthwith report the pertinent facts to the Board, in writing.

Amended by R.1998 d.84, effective February 2, 1998.
See: 29 N.J.R. 4250(b), 30 N.J.R. 563(a).
N.J.A.C. 14:11–1.10 recodified as (d).

**Cross References**

See N.J.A.C. 14:11–5.4, Reporting of accidents, N.J.A.C. 14:11–1.10, Reporting threatened interruptions of service, N.J.A.C. 14:10–1.13, Service interruptions, and N.J.A.C. 14:7–1.31, Natural gas pipelines. Autobus, trolley, and railroad utilities shall report in accordance with N.J.A.C. 16:52–1.4, Interruption of service, and N.J.A.C. 16:23–2.1, Interruption of service, as applicable.

Case Notes

Board without jurisdiction to hear action for damage resulting from power interruption; proper jurisdiction with courts; Board's jurisdiction limited to disputes over propriety of tariffs, costs and charges. Brooks, v. Public Service Electric and Gas Co., 1 N.J.A.R. 243 (1980).

### 14:3–3.10 Service call scheduling

(a) When a service call is scheduled, the utility shall inform the customer, upon request, whether the service call is scheduled to be made during the morning, afternoon or, if provided, the evening.

(b) If the utility is unable to keep the appointment for the scheduled service call, the utility shall inform the customer at the earliest possible time and the service call shall be rescheduled within 24 hours, unless good cause is shown. Good cause shall include, but not be limited to, situations where the customer is unavailable, system emergencies which may or may not be weather-related where crews are needed for repair or other functions necessary to maintain the viability and safety of the utility's operating system or parts thereof, or emergencies resulting from labor actions.

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

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## SUBCHAPTER 4. METERS

### 14:3–4.1 Ownership

(a) Each utility, except telephone utilities, shall own, provide, or cause to be provided on its behalf, for each customer supplied on a measured basis, a meter(s) and such service appliances as are customarily furnished by the utility, in order to connect the customer's equipment with the utility's facilities.

1. Said meter(s) and service appliances shall be provided at no additional charge other than that portion of the Board approved customer service charge which specifically reflects the cost of the meter(s) and service appliances.

(b) Each utility may charge to furnish and install a meter(s) and such service appliances as necessary for measurement purposes, in accordance with the provisions of a Board approved tariff.

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), deleted provision that meters and appliances be provided without charge; and added (a)1 and (b).

Case Notes

Record established that confusing billing procedures and malfunctioning remote register warranted elimination of adjusted bill. Magley v. New Jersey—American Water Company. 93 N.J.A.R.2d (BRC) 13.

### 14:3–4.2 Location

(a) The installation of meters and connections shall be in accordance with applicable "Codes," as set forth in N.J.A.C. 14:5, Electric Service, 14:6, Gas Service, and 14:9, Water and Wastewater, standard practice and the standard terms and conditions contained in the tariff of the utility on file with the Board.

(b) Meters installed indoors shall be located in a clean, dry, safe place not subject to great variations in temperature and on a support which is free from appreciable vibration. Meters installed outdoors should be protected from the weather or be designed for outdoor use.

(c) Meters shall be so located as to be easily accessible for reading, testing and making necessary adjustments and repairs. Meters should be placed in a location where the visits of the meter reader or tester will cause minimum inconvenience to the customer or to the utility.

Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Rewrote (a).

### 14:3–4.3 Access

Access to meters shall be in accordance with N.J.A.C. 14:3–3.8.

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

### 14:3–4.4 Equipment for testing

Test equipment and facilities shall be satisfactory to and approved by the Board, and shall be available at all reasonable times for the inspection by and the use of any authorized representative of the Board.

### 14:3–4.5 Tests by utility on request

(a) Each utility shall, without charge, make a test of the accuracy of a meter upon request of a customer, provided such customer does not make a request for test more frequently than once in 12 months.

(b) A report giving results of such tests shall be made to the customer, and a complete record of such tests shall be kept on file at the office of the utility in accordance with N.J.A.C. 14:3–4.9 Meter records.

(c) When a billing dispute is known to exist, the electric, gas or water utility shall, prior to removing the meter, advise the customer that the customer may have the meter tested by the utility or may have the Board either conduct a test of the meter or witness a testing of the meter by the utility, and that in any event the customer may have the test witnessed by a third party.

(d) A meter test arising from a billing dispute may be appropriate in instances which include, but are not limited to, unexplained increased consumption, crossed meters, con-

sumption while account is vacant or any other instance where the meter's accuracy might be an issue in a bill dispute.

Amended by R.1991 d.146, effective May 6, 1991.
See: 22 N.J.R. 617(a), 23 N.J.R. 1448(a).
New provisions at (c) and (d) require utility to inform customer of the option of a Board witnessed or conducted test of the customer's meter.

### 14:3–4.6 Tests by Board on request

Upon application by any customer to the Board, a test shall be made of the customer's meter by an inspector of the Board. Such test shall be made as soon as practicable after receipt of the application and upon notice to the customer and the utility as to the time and place of such test. For such test a fee, in accordance with N.J.S.A. 48:2–56, shall be paid by the customer at the time application is made for the test. This fee is to be retained if the meter is found to be slow or correct within the allowable limits. If the meter is found to be fast beyond the allowable limits, that is, more than two percent, or in the case of water meters, more than one one and one half percent, the utility shall reimburse the customer for the test fee paid.

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

### 14:3–4.7 Adjustment of charges

(a) Whenever a meter is found to be registering fast by more than two percent, or in the case of water meters, more than one and one half percent, an adjustment of charges shall be made in accordance with the following:

1. If the date when the meter had first become inaccurate can be definitely ascertained, then the adjustment shall be such percentage as the meter is found to be in error at the time of test adjusted to 100 percent on the amount of the bills covering the entire period that the meter had registered inaccurately.

2. In all other cases the adjustment shall be such percentage as the meter found to be in error at the time of test on one-half of the total amount of the billing affected by the fast meter adjusted to 100 percent since the previous test, but not to exceed a period of six years for electric, gas and water meters subject to testing by an approved scientific sampling technique.

(b) No adjustment shall be made for a period greater than the time during which the customer has received service through that meter.

(c) No adjustment shall be made for a meter that is found to be registering less than 100 percent except in the case of meter tampering, non-registering meters or in circumstances in which the customer should reasonably have known that the bill did not reflect the actual usage.

1. In cases of a debit adjustment to a customer's account, except in cases of theft or tampering, the customer shall be allowed to amortize the payments for a period of time equal to that period of time in which the charges were adjusted. Debit adjustments shall be limited to a maximum period of six years.

Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).
Reference to gas as well as electric meters added.
Amended by R.1991 d.147, effective May 6, 1991.
See: 22 N.J.R. 618(a), 23 N.J.R. 1449(a).
Reduced the measurement of accuracy for water meters from two percent to one and one half percent, thereby conforming the standard of accuracy in these rules to the uniform standards of the American Water Works Association; also prohibited a utility from re-billing a customer for consumption previously not billed for due to a slow meter.
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)2, inserted reference to water meters; and added (c)1.

#### Case Notes

No latches defense to avoid delinquent fire sprinkler tariffs despite water company's failure to bill landowner for five years. Rank v. Trenton Water Works, 97 N.J.A.R.2d (BRC) 1.

Customers not entitled to be billed on basis of 1,136 ccf of gas usage, rather than 11,136 ccf, for eight year period. Thomas v. New Jersey Natural Gas Company, 93 N.J.A.R.2d (BRC) 145.

Homeowner not entitled to credit to sewerage bill for water utilized in swimming pool and sprinkler system; no application for water diversion meter. Perelman v. Atlantic City Sewerage Company, 93 N.J.A.R.2d (BRC) 138.

No showing of water meter defect; no refund for overbilling. Aabdollah v. New Jersey American Water Company, 93 N.J.A.R.2d (BRC) 73.

Record established that meter readings and billings reflected water consumption; no overcharges. Presidential Apartments v. Hackensack Water Company, 93 N.J.A.R.2d (BRC) 68.

Record established that confusing billing procedures and malfunctioning remote register warranted elimination of adjusted bill. Magley v. New Jersey—American Water Company. 93 N.J.A.R.2d (BRC) 13.

### 14:3–4.8 Meter test reports

A report shall be made to the Board giving a summary of all meter tests. Each utility having 500 or more meters shall report quarterly. Utilities having less than 500 meters shall report annually. Blank forms on which reports are to be made will be furnished by the Board.

### 14:3–4.9 Meter records

(a) Complete records on all utility meters shall be kept in the utility's office and shall be available for examination at any time by inspectors of the Board. Such records shall include the following information:

1. Owning utility's number, or manufacturer's name and number;

2. Type, size, and so forth;

3. Date and location of each installation, and dates of removal and test;

4. The accuracy of the meter;

5. A record of the tests of each meter and action taken regarding same.

(b) All the records required in this Section shall be kept for a period of six years or to the date of the last test, whichever period is the longer.

### 14:3-4.10 Meter replacement

(a) A utility shall not make any charge for replacing a meter where such replacement is requested by a customer, unless the meter first referred to has been in use less than two years, in which case a charge, which shall not exceed the cost of making the replacement, may be made. No charge shall be made for replacing a meter for test purposes, or for replacing a meter necessitated by a change in service characteristics which conform to the provisions of these regulations, or for replacing a defective meter, unless the defect is due to the negligence of the customer in which case a charge which shall not exceed the cost of making the replacement may be made.

(b) A meter of a customer who has a complaint filed with the Board reflecting on the accuracy or performance of the meter shall not be removed from service by the utility during the pendency of said complaint or during the following 30 days unless otherwise authorized by the Board's staff.

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

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## SUBCHAPTER 5. OFFICES

### 14:3-5.1 Location

(a) Each utility shall maintain an office in its New Jersey service area, the current location of which shall be furnished to the Board's Division of Customer Assistance, where applications for service, complaints, service inquiries, bill payments, and so forth, will be received.

1. Each utility shall annually provide the Board, with a list of its in-person business offices, setting forth the location of and functions performed at each office; and

2. The utility shall file written notice with the Board of any proposed change in the functions of one or more of these offices at least 14 business days prior to the change being made.

(b) Each utility shall furnish the Board with the current location of the offices where maps and records covering the various service areas are available to supply, upon reasonable request, information to customers, governmental bodies, other utilities and contractors.

(c) In the event that a utility desires to close or relocate an office, the utility shall comply with the following procedures:

1. At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, a utility shall apply for approval with the Board, demonstrating that such closure or relocation is not unreasonable and will not unduly prejudice the public interest, and setting forth the means, upon Board approval of the application, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office.

2. The utility shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of application, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area.

i. The notice shall inform customers of their right to present to the Board, in writing, any objections they may have to the office closure or relocation; and

ii. The notice shall specify a date certain for submission of comments which date shall not be less than 20 nor more than 30 days after publication and posting.

3. An office shall not be closed or relocated until the utility has been informed, in writing, that the Board has approved such request.

(d) Utilities shall maintain and provide toll free or local exchange telephone numbers for use by the general public and customers affected by an office closing or relocation for billing, service and sales inquiries. This toll free number or local exchange number shall be posted on any notice at the office location as well as in the notice placed in the newspaper(s), pursuant to (c) above, serving the affected area.

(e) Each utility shall advise the Division not less than 60 days prior to the relocation of its customer call center(s) located in New Jersey.

Amended by R.1993 d.298, effective June 21, 1993.
See: 24 N.J.R. 2132(a), 25 N.J.R. 2699(a).
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), deleted "or within reasonable proximity of" following "shall maintain in".
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Rewrote (a); added (e).
Amended by R.2004 d.12, effective January 5, 2004.
See: 35 N.J.R. 91(a), 36 N.J.R. 200(b).
Rewrote (a).

**Case Notes**

Change in bill format rejected; determination of complex rate increase petition. In re: Public Service Electric & Gas Co., 6 N.J.A.R. 633 (1981).

### 14:3-5.2 Personnel to be contacted

(a) Each utility shall furnish to the Board and keep current a list of names, addresses and telephone numbers of

responsible officials to be contacted in connection with routine matters during normal working hours.

(b) Each utility shall also furnish to the Board and keep current a list of names, addresses, and telephone numbers of responsible officials who may be contacted in event of emergency during other than normal working hours.

### 14:3-5.3 Emergency telephone numbers

(a) Each public utility shall establish and prominently display on all customer bills after present supplies are exhausted, a current telephone number which may be used by customers and others to report emergencies to the public utility.

(b) In addition, each public utility shall maintain a listed emergency number in appropriate telephone directories, and file same with police departments, fire departments, municipal clerks and other appropriate governmental agencies.

(c) These numbers shall be tended in order that calls can be answered on a 24 hour basis, with assurance that, within a reasonable period of time, a company official will be contacted.

(d) Electric, gas, telephone and Class A water utilities shall have available, on a 24 hour per day basis, representatives or agents to accept emergency telephone calls from customers. Said representatives or agents shall be able to contact appropriate utility personnel in the event of an emergency situation. If used by a utility, an Automatic Response Unit (ARU) must provide an escape option to allow a customer to speak to the next available operator.

(e) Each utility shall respond to an emergency or shut-off complaint from the Board's Division of Customer Assistance within one hour of receiving such complaints by acknowledging receipt of the complaint by e-mail or facsimile to the member of the Board staff who forwarded the complaint. The purpose of the acknowledgement is to inform staff that the complaint has been received and that the process for the implementation of any appropriate corrective action has been initiated.

R.1973 d.187, effective July 11, 1973.
See: 4 N.J.R. 196(e), 5 N.J.R. 292(b).
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Added (d).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Added (e).

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## SUBCHAPTER 6. RECORDS

### 14:3-6.1 Location and examination

Each regulated entity shall notify the Board, upon request, of the office or offices at which various records are kept. These records shall be open for examination by the Board's inspectors.

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Substituted "regulated entity" for "utility".

### 14:3-6.2 Plant and operating

(a) Each regulated entity shall maintain, readily available, adequate maps and/or records reflecting the latest available information and data concerning the size, type, location and date of installation of its major units of property.

(b) Each regulated entity owning or operating pumping, treatment facilities or power stations or other production facilities for the purpose of furnishing service to customers shall keep for a period of one year a record of the time of starting and shutting down of all principal units of such equipment, as well as a record of pertinent related operating statistics. Each such utility shall maintain and keep in operating condition one or more graphic recording devices at central points where continuous records shall be made of the pressure or voltage at that point.

(c) Each utility shall keep for a period of one year, a record of complaints in regard to service received at its office or offices, which shall include the name and address of the customer, the date, the nature of complaint and the disposition. The record shall be available for inspection by the Board's inspectors.

(d) By June 18, 2005, each regulated entity shall submit to the Board a procedure for the regulated entity to determine, at the time of receipt of an application for extension, whether the requested extension will serve development in a designated growth area or an area not designated for growth, as defined at N.J.A.C. 14:3-8.2.

(e) Each regulated entity shall keep detailed records of all deposits, refunds, and expenditures on extensions, as defined at N.J.A.C. 14:3-8.2, with sufficient detail to enable the regulated entity to demonstrate compliance with this chapter to the Board.

(f) The regulated entity shall make the records required under this section available to Board staff for inspection during regular business hours upon request.

(g) Each regulated entity shall maintain, for each calendar year, the following records:

1. The amount of trench which it has shared with other regulated entity lines or cables; and

2. The number of subdivisions, the number of lots and the number of buildings or structures, both residential and nonresidential, for which service was provided. The regulated entity shall identify whether these are in designated growth areas or areas not designated for growth.

(h) Regulated entities shall determine whether an application for an extension as defined by N.J.A.C. 14:3-8.2 will serve an area designated for growth or an area not designated for growth as these terms are defined at N.J.A.C. 14:3-8.2.

(i) Regulated entities shall submit to the Board a procedure by which the regulated entity shall determine, at the time of receipt of an application for an extension, whether the requested extension will serve a development in a designated growth area or an area not designated for growth. The procedure shall be submitted within 180 days after the date that the regulated entity begins to provide service.

Amended by R.2004 d.462, effective December 20, 2004.
See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).
Added (d) through (g).
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In (a) and (b), substituted "regulated entity" for "utility", in the first sentence; in (d), substituted "extension" for "service", following "application for"; in (d), (e) and (g)2, deleted the last sentence; and added (h) and (i).

### 14:3-6.3 Periodic reports

(a) Every utility shall file with the Board on or before March 31 of each year, or on or before the due date noted on the report form, a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the Board. In special instances utilities may be required to submit reports quarterly and monthly as directed by the Board. Other periodic reports shall be filed on or before the due date noted on the report form.

(b) A utility may request the Board's Secretary for an extension of up to 30 days for the filing of the report required in (a) above. The request shall state the reason for the extension.

(c) Any additional extensions of the date for the filing of the report shall require the submission of separate requests as provided for in (b) above.

(d) Should the Board Secretary deem it appropriate to deny a request for the extension of time for filing the report, the request shall be brought before the Board for final consideration.

Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).
Reference to due dates noted on report forms, added.
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Designated existing paragraph as (a) and added (b) through (d).

### 14:3-6.4 Accidents

(a) Each utility shall keep a record of and report to the Board all accidents which come within the meaning of reportable accidents, as hereinafter defined, occurring in connection with the operation of the utility's plant, property or facilities within the State.

(b) For the guidance of each utility, a reportable accident is defined as an accident, other than a motor vehicle accident which does not create a service interruption, that results in one or more of the following circumstances:

1. Death of a person;

2. Serious disabling or incapacitating injuries to persons, including employees of the company;

3. Damage to the property of the company which materially affects its service to the public;

4. Damage to the property of others amounting to more than $5,000; and/or

5. Any accidental ignition of natural gas.

(c) The Board shall be notified by the speediest, most feasible and practical means of communication available, followed by a detailed written report, as hereinafter set forth, of all reportable accidents which are clearly reportable and those which there is a good reason to believe may result in "reportable accidents" as defined herein. This notice shall in no event be made later than two hours after the utility learns of the accident. In addition, accidents resulting in damage to the property of others amounting to more than $2,000 but less than $5,000 must be reported within 48 hours of their occurrence. The initial report shall be followed by additional reports, transmitted by any feasible means, providing further information about the accident as soon as practicable after the information becomes available, so as to enable Board staff to immediately undertake any necessary steps such as site investigation. If such notification is not given in any case for the reason that the accident is not considered reportable and it subsequently develops that the accident is reportable, the utility involved shall notify the Board immediately after it has been ascertained that such accident is reportable. A detailed written report containing full information about the accident and a full explanation of why it was not immediately reported must then follow. Failure to demonstrate that it was not possible to have provided timely, complete and accurate notice to the Board may subject the utility to an administrative enforcement action by the Board.

(d) Initial notice of reportable accidents shall be made to the Board's Division of Service Evaluation by calling (973) 648–6964, and shall include all significant facts that are known by the utility about the location and cause of the accident and the extent of the damages and injuries, if any. Written reports shall be submitted within 15 days to the Board Secretary and the Director of the Division of Service Evaluation, Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102.

(e) Notification to the Board's Division of Service Evaluation outside of normal hours shall be made by calling 1–800–817–6715.

(f) If at the time of the submission of the written accident report the utility is unable to state the corrective measures taken or make recommendations to avoid a recurrence of the accident, the utility shall within 30 days of the date of the accident file a report which shall set forth the aforementioned corrective measures and recommendations. This report shall show the same accident report number as the original report.

(g) Accident reports shall be numbered serially, by year. Illustration: 97–1, 97–2, and so forth.

(h) Accident reports may be used by the Board in determining what safety practices should be recommended. In a proceeding before the Board, accident reports shall be evidential only at the discretion of the Board.

SAMPLE ACCIDENT REPORT FORMS—
ALL UTILITIES
REPORT OF ACCIDENTS

Report No. _____

Name of Reporting Utility: _____
Date of Accident: _____ Time of Day: _____
Place of Accident: _____
Details of Casualties to persons: _____

_____

Details of Effects on Service: _____
Details of Accident (Nature and Cause): _____

_____

Corrective Measures: _____

_____

Recommendations to Avoid Recurrence: _____

_____

_____

Signed: _____ Title: _____ Date: _____

As amended, R.1975 d.8, eff. January 17, 1975.
See: 6 N.J.R. 451(c), 7 N.J.R. 62(a).
Amended by R.1998 d.84, effective February 2, 1998.
See: 29 N.J.R. 4250(b), 30 N.J.R. 563(a).
N.J.A.C. 14:11–5.4(a) through (c) recodified as (a) through (c); N.J.A.C. 14:11–5.5 recodified as (d); 14:11–5.6 recodified as (e), 14:11–5.7 recodified as (f).
Amended by R.2000 d.1, effective January 3, 2000.
See: 30 N.J.R. 4130(a), 32 N.J.R. 63(a).
Rewrote (c); inserted new (d) and (e); and recodified former (d) through (f) as (f) through (h).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
In (b), substituted "$5,000" for "$2,000 in 4 and added 5; in (c), inserted "In addition, accidents resulting in damage to the property of others amounting to more than $2,000 but less than $5,000 must be reported within 48 hours of their occurrence.".

**Case Notes**

Plaintiffs in civil action entitled to examine accident reports made by Board and submitted by gas company, either under the Right to Know Law or the common law right of citizens to inspect public records. Irval Realty, Inc. v. Bd. of Public Utility Commissioners, 61 N.J. 366, 294 A.2d 425 (1972).

**14:3–6.5 (Reserved)**

Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).
Corrected internal citation formats.
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), inserted exception for records of ongoing investigations.
Repealed by R.2003 d.290, effective July 21, 2003.
See: 34 N.J.R. 2271(b), 35 N.J.R. 3368(b).
Section was "Public records".

Case Notes

Plaintiffs in civil action entitled to examine accident reports made by Board and submitted by gas company, under either the Right to Know Law or the common law right of citizens to inspect public records. Irval Realty, Inc. v. Bd. of Public Utility Commissioners, 61 N.J. 366, 294 A.2d 425 (1972).

Unsuccessful telecommunication relay service bidder was not entitled to disclosure of successful bidder's proposal information. In Matter of Provision of Telecommunications Relay Service, 92 N.J.A.R.2d (BRC) 58.

Cable TV association was entitled to aggregate-based service records of telephone utility but not individual service records; internal memoranda of staff of Board of Regulatory Commissioners also not subject to disclosure. In Matter of Request of New Jersey Cable Television Association, 92 N.J.A.R.2d (BRC 51.

### 14:3–6.6 Telephone system information

(a) On January 1 and July 1 of each year, each electric, gas, local exchange carrier telephone, Class A water and Class A wastewater utility shall provide the Board with the following information concerning the operation of the utility's telephone system:

1. The location of each office from which telephone calls from customers and the general public are normally received and the number of customers served by that office;

2. The days of the week and the hours in which the office is open to conduct business with the public and receive telephone calls;

3. The telephone number(s) by which customers may call the utility;

4. The method by which customers are informed of the telephone number(s) to be used to contact the utility;

5. Whether or not the customers are requested to dial a single telephone number or a separate number depending on the nature of their inquiry;

6. Whether or not inward telephone traffic is grouped to individual departments, such as service or billing, along with the total number of such departments and the identification of each department;

7. The total number of inward telephone trunk lines assigned to each telephone number used by the utility;

8. A brief description of the type of telephone system used in the office and the manufacturer and model number of the equipment used;

9. Whether or not the office has on-premises private branch exchange (PBX) or other private switching device and whether or not the device handles all telephone traffic for the office;

10. The total number of functional lines on the line aide (telephone extension/customer service representative side) of the PBX or other private switching device and, if segregated by department, the number of functional lines assigned to each department;

11. The total number of customer service representatives (CSRs) normally available to answer calls. If CSRs are segregated by department, the total of CSRs available for each department;

12. If the assignments of CSRs varies by hour, day or other time period, the utility shall describe the variation in the assignment;

13. A brief description of the initial and ongoing training provided to the CSRs;

14. A brief description of the billing cycle including dates on which bills are mailed;

15. Whether or not the CSRs have access to computer terminals for billing or service information and, if so, a brief description of the information available to the CSRs;

16. Whether or not the telephone system serving the office has automated call distribution capability for the entire office or for specific departments. If so, the utility shall supply a brief description of the method of call distribution;

17. Whether or not the telephone system places incoming calls in queue, and, if so, the maximum number of callers that can be placed in queue;

18. Whether or not the telephone system has an automated response unit (ARU) and, if so, a brief description of the routing options available to callers through the ARU;

19. Whether or not the telephone system provides recorded messages to callers and a description of the message provided;

20. Whether or not telephone answering machines or devices are used and, if so, the hours in which they are used and the departments in which they are used; and

21. If a telephone answering service is used:

i. The name and address of the answering service and the hours during which said service is used. In addition, the utility shall indicate whether or not the answering service receives all incoming calls or for specific departments; and

ii. The information required pursuant to (i) above shall be provided to the Board within 90 days of the effective date of this rule and annually thereafter.

(b) Each utility shall, within 30 days, inform the Board of any substantive change in the information filed pursuant to this section.

(c) If a utility uses a telephone answering service, the utility must ensure that the service shall inform each customer that they are speaking to an answering service and not to the utility.

New Rule, R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
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 "On January 1 and July 1 of each year, each" for "Each" and inserted "and Class A wastewater".
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), recodified former 21iii as (b); added (c).

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## SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

### 14:3-7.1 Deposits for metered and telephone service

(a) If after notice of the methods of establishing credit and being afforded an opportunity, a customer has not established credit, the utility may require a reasonable deposit as a condition of supplying service.

(b) The credit established, by whatever method, shall apply at any location within the area of the utility furnishing the service; that is, service is not to be regarded as restricted to a particular location.

(c) The amount of a deposit shall be reasonably related to the probable charge for service during a billing period based upon the average monthly charge over an estimated 12 month service period increased by one month's average bill.

As amended, R.1978 d.155, effective May 16, 1978.
See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).
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 (c).

### 14:3-7.2 Deposits to insure credit of new customers

If a customer whose credit has not been established applies for service, the initial deposit shall be the estimated average bill of the customer for a billing period, based upon the average monthly charge over an estimated 12 month service period increased by one month's average bill. In determining the amount of deposit, except in the case of telephone utilities, there shall be excluded from the average bill such portion thereof, if any, for which payment is received in advance. If the actual bills of the customer subsequently rendered prove that the deposit is either insufficient or excessive, the deposit may be changed in accordance with the facts.

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 section.

### 14:3-7.3 Customers in default

(a) Customers in default in the payment of bills may be required to furnish a deposit or increase their existing deposit in an amount sufficient to secure the payment of future bills. The amount of such deposit shall be determined in accordance with the principle set forth in N.J.A.C. 14:3-7.1. Service shall not be discontinued for failure to make such deposit except after proper notice.

(b) If a customer who has made a deposit fails to pay a bill, the utility may apply such deposit insofar as is necessary to liquidate the bill and may require that the deposit be restored to its original amount.

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

### 14:3-7.4 Receipts and records

The utility shall furnish a receipt to each customer who has made a deposit. Where return of the deposit is made in cash, surrender of the receipt or, in lieu thereof, proof of identity may be required.

### 14:3-7.5 Return of deposits

(a) Upon closing any account the balance of any deposit remaining after the closing bill for service has been settled shall be returned promptly to the depositor with interest due.

(b) Each utility shall review a residential customer's account at least once every year and a nonresidential customer's account at least once every two years and if such review indicates that the customer has established credit satisfactory to the utility, then the outstanding deposit shall be refunded to the customer. Each utility shall afford its customers the option of having the deposit refund applied to the customer's account in the form of a credit or of having the deposit refunded by separate check in a period not to exceed one billing cycle.

(c) Simple interest at a rate equal to the average yields on new six month Treasury Bills for the 12 month period ending each September 30 shall be paid by the utility on all deposits held by it, provided the deposit has remained with the utility for at least three months. Said rate shall become effective on January 1 of the following year. The Board shall perform the annual calculation to determine the applicable interest rate and shall notify the affected public utilities of said rate.

1. Interest on deposits previously collected and held by the public utility shall be apportioned so that the computed interest rate shall be based upon the average yields on new six month Treasury Bills, beginning the following January 1.

2. Interest payments shall be made at least once during each 12 month period in which a deposit is held and shall take the form of credits on bills toward utility service rendered or to be rendered. The effect of this subsection shall be limited to those deposits, if any, held by electric, gas, telephone and water utilities to secure residential accounts.

As amended, R.1978 d.155, effective May 16, 1978.
See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).
As amended, R.1979 d.117, effective March 16, 1979.

See: 11 N.J.R. 260(a).
As amended, R.1979 d.289, effective August 1, 1979.
See: 11 N.J.R. 258(b), 11 N.J.R. 467(a).
As amended, R.1984 d.87, effective April 2, 1984.
See: 15 N.J.R. 1355(a), 16 N.J.R. 744(a).
(c) Amended to allow interest payments to be credited towards bills.
Amended by R.1988 d.568, effective December 19, 1988.
See: 20 N.J.R. 737(a), 20 N.J.R. 3140(b).
Changed "six months" to "12"; added text "The board shall ...".
Amended by R.1991 d.148, effective May 6, 1991.
See: 22 N.J.R. 619(a), 23 N.J.R. 1450(a).
Requires utilities refund deposit by check or credit and be made within a billing cycle.
Public Notice: Applicable interest rate on customer deposits effective for calendar year 1992 is 6.0 percent.
See: 23 N.J.R. 3660(a).
Amended by R.1992 d.225, effective June 1, 1992.
See: 24 N.J.R. 686(b), 24 N.J.R. 2073(a).
Rounding interest up or down to nearest half percent repealed.
Public Notice: Applicable interest rate on customer deposits effective for calendar year 1993 is 3.93 percent.
See: 24 N.J.R. 4434(a).
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Deleted (c)1, relating to deposits received on or after Jan. 1, 1989; and recodified former (c)2 through (c)3 as (c)1 through (c)2.
Public Notice: Interest rates on deposits.
See: 33 N.J.R. 136(a).
Public Notice: Interest rates on deposits.
See: 33 N.J.R. 333(a).
Public Notice: Interest rates on deposits.
See: 33 N.J.R. 734(b).
Public Notice: Interest rates on deposits.
See: 33 N.J.R. 4396(a).
Public Notice: Interest rates on deposits.
See: 34 N.J.R. 4478(a).
Public Notice: Interest rates on deposits.
See: 35 N.J.R. 5623(b).
Public Notice: Interest rates on deposits.
See: 36 N.J.R. 5585(b).
Public Notice: Notice of applicable interest rate on customer deposits; effective for calendar year 2006.
See: 37 N.J.R. 4329(a).
Public Notice: Interest rates on deposits.
See: 38 N.J.R. 5421(a).
Public Notice: Interest rates on deposits.
See: 40 N.J.R. 223(a).

**Cross References**

Billing disputes, see N.J.A.C. 14:3-7.13.

**Case Notes**

Utility lost right to setoff security deposit against utility debts. In re Village Craftsman, Inc., Bkrtcy.D.N.J.1993, 160 B.R. 740.

### 14:3-7.6 Unmetered service

Where a utility, other than a telephone utility, furnishes unmetered service for which payment is received in advance, it may not demand other guarantees to secure payment for service.

Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Substituted "guarantees" for "guarantee".

### 14:3-7.7 Information to customers

(a) Each utility shall adopt some method of informing its customers as to the reading of meters, either by printing on bills a description of the method of reading meters, or a notice to the effect that the method will be explained on request, giving the address and telephone number where such information may be obtained. In addition, the utility shall furnish the address of an office where complaints, service inquiries and bill payments will be received.

(b) Except pursuant to (c) below, each utility shall provide an option for discontinuance notices in Spanish, by including on each bill a statement, written in Spanish, informing the customer that they may request that any notice of discontinuance be provided to them in Spanish. The bill shall provide a toll free telephone number for the customer to call in order to make such a request. Once the utility receives a request to provide a written notice of discontinuance in Spanish, all subsequent written notices of discontinuance to the requesting customer shall be provided in both Spanish and English.

(c) A utility that provides all written notices of discontinuance in both Spanish and English shall not be required to provide the option and toll free telephone numbers for Spanish discontinuance notices, required under (b) above. Such a utility shall instead demonstrate to the Board by April 4, 2004 that it provides notices in Spanish as well as English. The utility shall submit copies of the notices, and shall certify that the company's notice practices provide Spanish speaking customers with notice of discontinuance that is equivalent to or better than that which would be provided through compliance with (b) above. If such a utility stops providing all written notices of discontinuance in both Spanish and English, the utility shall provide the option and toll free telephone number in accordance with (b) above.

Amended by R.2004 d.12, effective January 5, 2004.
See: 35 N.J.R. 91(a), 36 N.J.R. 200(b).
Codified existing text as (a); added (b) and (c).

### 14:3-7.8 Record of customer's account

Each utility shall keep a record of each customer's account in such a manner as will permit computation of the bill for any billing period occurring within six years, except that telephone utilities shall keep said records in accordance with the Federal Communications Commission's rules and regulations, 47 C.F.R. 42.01 et seq., "Preservation of Records of Communication Common Carriers," as amended and supplemented, incorporated herein by reference.

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

### 14:3-7.9 Form of bill for metered service

(a) Unless a utility has been specifically relieved of so doing by order of the Board, the bill shall show the following:

1. The meter readings at the beginning and end of the billing period;
2. The dates on which the meter is read;
3. The number and kind of units measured;

4. Identification of the applicable rate schedule. If the applicable rates are not shown, the bill shall carry a statement to the effect that the applicable rate will be furnished upon request;

5. The gross and/or net amount of the bill;

6. If the utility uses gross and net billing, the date on which payment must be made to qualify for the net billing or discount;

7. A distinctive marking to indicate that the bill is based on an estimated or averaged use or on the index of a remote reading device;

8. An explanation or statement of any conversion from meter reading to billing units or any other calculations or factors used in determining the bill;

9. For each Class A water utility and each wastewater utility that meets the revenue threshold of a Class A water utility subject to the Board's jurisdiction, sufficient information to reflect the estimated amount of money in that individual bill which is collected for the gross receipts and franchise taxes pursuant to N.J.S.A. 54:30A–54. The following language is suggested as a model statement to be indicated on the bill: "Approximately 13% of $_____ of your current period charges reflect the average gross receipts and franchises taxes which are paid to the State of New Jersey and distributed to New Jersey municipalities."

10. For each electric and gas company subject to the Board's jurisdiction, sufficient information to adequately reflect that the payment of all applicable taxes imposed upon and included in the cost of each kilowatt hour of electricity and therm of gas consumed by an electric and gas company customer pursuant to P.L. 1997, c.162 and other applicable laws of this State. The following language is suggested as a model statement to be included on the bill: "Under applicable tax law, the State sales and use tax, corporate business tax, and Transitional Energy Facility Assessment are imposed upon the energy which you have used. To obtain the exact amount of tax included in your billing, please contact the Company at the telephone number listed on your bill."

(b) Rules concerning estimated bills for residential customers are as follows:

1. Utility companies shall maintain a regular meter reading schedule and make a reasonable effort to read all meters.

2. Utility companies, upon request, must make available to all customers a postage paid business reply card on which the customer may mark the meter reading. Said card shall have appropriate explanation. The utility must permit the customer to telephone the meter reading to the utility. The customer reading is to be used in lieu of an estimated reading, provided the reading is received in time for billing.

3. When a utility company estimates an account for four consecutive billing periods (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the company must initiate a program to mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice must explain the penalty for failure to complete an actual meter reading. After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the company may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment.

4. Utility companies must submit to the Board of Public Utilities a statement detailing their estimating procedures.

5. An estimated or averaged bill, or a bill based upon the index of a remote reading device, must be clearly designated as such.

6. If low estimates result in a customer receiving an actual bill that is at least 25 percent greater than the prior estimated bill, the company shall allow the customer to amortize the excess amount. The amortization will be in equal installments over a period of time equal to the period when no actual reading was taken by the customer or the company.

7. Annually, the company shall notify all customers of their rights to amortize as outlined in (b)6 above.

(c) Prior to the implementation of any plan, automated or otherwise, which would be utilized to replace a utility's current method of taking actual meter readings for any class of customers, said plan must be submitted to the Board for approval.

1. Said plan shall include, but not be limited to, the justification for the utility to not be required to have a person actually read the meter indices for billing purposes, the identification of all associated costs and/or savings, the impact, if any, upon safety, and the potential for the diversion of service.

As amended, R.1979 d.474, effective January 1, 1980.
See: 11 N.J.R. 402(b), 12 N.J.R. 49(b).
As amended, R.1980 d.44, effective January 24, 1980.
See: 12 N.J.R. 156(d).
As amended, R.1980 d.299, effective July 1, 1980.
See: 12 N.J.R. 209(f), 12 N.J.R. 495(d).
As amended by R.1987 d.163, effective April 6, 1987.
See: 18 N.J.R. 2425(a), 19 N.J.R. 552(a).
Substituted "and sewerage" for "sewage".
Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

Deleted archaic "Board of Public Utility Commissioners".
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Added (a)10; in (b)3, inserted provision on offering evening and weekend readings; in (b)5, inserted reference to averaged bills and bills based upon remote reading device index; and added (c).
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), rewrote 9 and 10.

Case Notes

Implementation of 1991 amendments to Gross Receipts and Franchise Tax statutes. In Matter of Implementation of P.L. 1991, C. 184, 92 N.J.A.R.2d (BRC) 53.

Change in bill format rejected; determination of complex rate increase petition. In re: Public Service Electric & Gas Co., 6 N.J.A.R. 633 (1981).

### 14:3–7.10 Form of bill for unmetered service

(a) The bill shall show the following:

1. The period of the bill;

2. Identification of the applicable rate schedule. If the applicable rates are not shown, the bill shall carry a statement to the effect that the applicable rate will be furnished upon request;

3. The gross and/or net amount of the bill;

4. If the utility uses gross and net billing, the date by which payment must be made to qualify for the net billing or discount.

### 14:3–7.11 Method of billing

(a) Bills for metered and telephone service shall be rendered monthly, bimonthly or quarterly and shall be prorated upon establishment and termination of service. In unusual credit situations, bills may be rendered at shorter intervals.

(b) Metered and telephone seasonal service may be billed in accordance with reasonable terms and conditions of service set forth in the utility's tariff filed with and approved by the Board.

(c) A utility furnishing unmetered service may, under uniform nondiscriminatory terms and conditions, require payment in advance for a period not to exceed that for which bills are regularly rendered as specified in its applicable tariff filed with and approved by the Board. Initial and final bills shall be prorated as of the date of the initial establishment and final termination of service.

(d) A utility offering electronic billing to its customers shall provide the same billing information as required in (a) through (c) above and in N.J.A.C. 14:3–7.10. The utility shall advise those customers who opt to receive electronic billing of their right to also receive a paper bill upon request.

Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Added (d).

Case Notes

Gas customer failed to show that utility company's application of his current payments to past due balances constituted misconduct. Slowinski v. Public Service Electric & Gas Company, 96 N.J.A.R.2d (BRC) 103.

### 14:3–7.11A Requirement for budget billing and payment plans of gas, electric, water and wastewater utilities for residential accounts

(a) Each gas, electric, water and wastewater utility which does not bill on a flat rate basis shall have available on request a budget billing and payment plan for residential accounts having the characteristics set forth below:

1. The plan shall be voluntary.

2. The projected monthly budget amount shall be determined by the following factors:

i. Usage on the account for the past season by month;

ii. Actual weather conditions encountered during the past season adjusted to normal year;

iii. Base rate increases and levelized energy or levelized gas adjustment charges actually granted by the Board; and

iv. Projected changes in the levelized energy or levelized gas adjustment charges.

3. The utility company shall have the authority to determine the time frame of the plan, 10, 11 or 12 months. Any change in time frame will require prior approval by the Board of Public Utilities.

4. If a customer is a new customer with little or no prior use, the monthly budget amount shall be determined by a reasonable estimate of likely usage.

5. A comparison shall be made between the actual cost of service rendered, as determined by actual meter readings, and the monthly budget amount as follows:

i. The comparison shall be made at least once in the budget plan year;

ii. The comparison shall take into account consumption and any rate increases or decreases that have been granted by the Board, including increases or decreases in the levelized energy or levelized gas adjustment charges;

iii. If and when a comparison reveals an increase or decrease of 25 percent or more in the monthly budget amount, the monthly budget amount shall be adjusted upwards or downwards, as the case may be, for the balance of the budget plan year to minimize the adjustment required at the end of the budget plan year between the monthly budget amount and the actual cost of service rendered during the budget plan year; there shall be no more than one such adjustment during the budget plan year;

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 1/6 inch in height (12 points). No other matter shall be printed upon the back of the notice.

(f) Each water utility shall:

1. At least 30 days prior to the discontinuance of fire protection service or multi-use service, give notice of the discontinuance via certified mail to the following:

i. The fire protection or multi-use 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; and

ix. The Board of Public Utilities; and

2. In the event that fire protection service or multi-use service is ultimately discontinued, 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).
Add 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.
Amended by R.2006 d.367, effective October 16, 2006.
See: 38 N.J.R. 1538(a), 38 N.J.R. 4490(b).

Rewrote the introductory paragraphs of (f) and (f)1; in (f)1i, inserted "or multi-use"; in (f)1viii, added "and" at the end; deleted (f)1ix; recodified (f)1x as (f)1ix; in (f)1ix, substituted "; and" for a period at the end; and in (f)2, inserted "or multi-use service" and deleted "the servicing water utility" preceding "immediately".

**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. Slowinski 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.

1. No discontinuance shall occur until the customer has been afforded all reasonable due process considerations, including an opportunity to be heard. Toward this end, the electric and gas utilities shall comply with the following requirements prior to discontinuing service to any customer who has allegedly tampered with the meter or other company facilities resulting in the receipt of unmetered service:

i. The utility shall notify the Board of all pertinent facts related to the alleged tampering;

ii. The Board shall have seven days after receipt of said information to complete an impartial and informal investigation of the matter. In the event that a utility comes forward with sufficient credible evidence that shows that the meters, pipes, wires, conduits or attachments through which a customer is thus being furnished with electric or gas service have been tampered with, the Board shall immediately notify the customer and the burden shall shift to the customer to come forward with sufficient evidence to rebut the charges of the utility. Failure to do so will result in a finding that tampering did occur for the purpose of obtaining the utility service without payment and that the customer is responsible therefor;

iii. Upon a finding by the Board that tampering did occur, the utility shall give written notification to the customer, by certified mail, return receipt requested, and to the local public welfare agency and the local municipal health agency, by regular mail, as to the date upon which service to the customer shall be terminated. Said notification shall be made at least seven days prior to the date of the proposed service termination. The utility shall further advise the customer in the written notification that if he or she claims to be dependent on life sustaining equipment, the customer must furnish a physician's certificate within the aforementioned seven day period, wherein the condition requiring such equipment is identified and verified;

iv. Any relief requested under N.J.A.C. 14:3–3.6(d) regarding medical emergencies shall be reviewed on a case-by-case basis.

2. A customer, otherwise eligible for the Winter Termination Program, whose electric or gas service had been discontinued prior to the start of the heating season and who has subsequently caused the unauthorized restoration of said service shall, when said unauthorized service has been registered on the meter, be required to make a down payment of up to 25 percent of the outstanding account balance as of the most current meter reading as a pre-condition for the continuation of service during the heating season.

New Rule, R.1987 d.516, effective December 21, 1987.
See: 18 N.J.R. 2315(a), 19 N.J.R. 2405(b).
Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

Corrected erroneous reference at (i)1ii., to tampering "not" occurring; correct indication is to tampering occurring.
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

In (h), inserted reference to program availability; and in (h)8, added provision relating to eligible customers not heating with natural gas.
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)3, substituted "Temporary Assistance to Need Families (TANF)" for "Federal Aid to Families with Dependent Children (AFDC)"; in (a)6, substituted "General Assistance (GA) benefits" for "general welfare assistance".
Amended by R.2005 d.22, effective January 3, 2005.
See: 36 N.J.R. 17(b), 37 N.J.R. 88(a).

In (a), added new 7 and recodified former 7 as 8.

### 14:3–7.13 Disputes as to bills

(a) A utility shall not discontinue service because of nonpayment of bills in cases where a charge is in dispute, provided the undisputed charges are paid and a request is made to the Board for an investigation of the disputed charge. In such cases the utility shall notify the customer that unless steps are taken to invoke formal or informal Board action within five days, service will be discontinued for nonpayment. Once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease. Each utility shall provide the Board's Division of Customer Assistance with responses to written complaints within five days and within three days for verbal complaints. When the Board has determined that a formal or informal dispute has been resolved, the utility is required to provide at least seven days written notice before service may be discontinued.

(b) In appropriate cases the Board may require all or a portion of disputed charges to be placed in escrow.

(c) Whenever a residential customer advises the utility that the customer wishes to discuss a deferred payment agreement because said customer is presently unable to pay a total outstanding bill, the utility shall make a good faith effort to provide the customer with an opportunity to enter into a fair and reasonable deferred payment agreement(s) which takes into consideration the customer's financial circumstances. In negotiating such a deferred payment agreement(s), a residential customer may not be required to pay, as a down-payment, more than 25 percent of the total outstanding bill due at the time the agreement(s) is made or executed. In the case of a residential customer who received more than one utility service from the same utility and the amount which is in arrears is a combination of those services, the utility shall offer a separate deferred payment agreement for each service based on the outstanding balance for that service prior to any proposed discontinuance for nonpayment. The utility shall not require such a customer to accept two or more deferred agreements that extend over the same time period. The customer shall have the option to enter into a deferred payment agreement(s) and have the remaining service(s) disconnected until satisfactory arrangements for payment can be made. A utility shall renegotiate and/or amend the deferred payment agreement

of a residential customer if said customer demonstrates that his or her financial circumstances have changed significantly because of factors beyond his or her control.

1. A non-residential electric, gas, water and/or wastewater customer shall be allowed to enter into a deferred payment agreement for a period of no more than three months. A utility may request from a non-residential electric, gas or Class A water company customer or from a customer of a wastewater company that meets the Class A water company revenue threshold, a down payment of no more than one half of the amount past due and owing at the time of entering into a deferred payment agreement.

(d) Such agreements which extend for more than two months shall be in writing and shall provide that a customer who is presently unable to pay an outstanding debt for utility services may make reasonable periodic payments until the debt is liquidated while continuing payment of current bills. While a deferred payment agreement for each separate service need not be entered into more than once a year, the utility may offer more than one such agreement in a year. The Board may order a utility to accept more than one deferred payment agreement in a year if said action is reasonable. If the customer defaults on any of the terms of the agreement, the utility may discontinue service after providing the customer with a notice of discontinuance. In the case of a residential customer who receives more than one utility service from the same utility and has subsequently entered into a separate agreement for each separate service, default on one such agreement shall constitute grounds for discontinuance of only that service.

(e) A public utility shall pay or credit interest at a rate equal to that prescribed by the Board in N.J.A.C. 14:3–7.5 (Return of deposits) on any overpayment made by a residential customer due to a billing error, unless the overpayment is fully refunded or credited to the customer's account within two billing cycles after written notification by the customer to the utility wherein the alleged error is identified, described and documented in sufficient detail.

1. For purposes of this subsection, "billing error" shall mean a charge to a residential customer in excess of that approved by the Board for the type of service supplied to that customer or in excess of the charge due for the service supplied to that customer as measured or recorded by meter or other device; except that neither the amount of any estimated bill in and of itself, nor the amount due on a budget account installment shall constitute a billing error.

2. The period of time constituting "two billing cycles" shall be determined by the billing practices of the public utility in place at the time of receipt by the utility of the written notification by the customer of the error. In no event shall such period be considered to be less than 60 days.

3. Each public utility shall annually provide written notice of the provisions of this subsection to each of its residential customers.

(f) A utility shall not assess a late payment charge on an unpaid bill unless such charge is provided for in the utility's applicable rate schedule approved by the Board.

1. A late payment charge shall not be approved if it is applicable to bills less than 25 days after rendering.

2. A late payment charge shall not be approved for a rate schedule applicable to a state, county or municipal government entity or any residential customer.

(g) When the amount of an electric, gas, water or wastewater bill is significantly higher than the established consumption history indicated on the customer's account, and there is no apparent explanation for the increase (for example, severe weather conditions; changes in the make-up or the lifestyles of the members of the household), the customer's established consumption shall be given consideration, in addition to the results of any tests performed to deduce the accuracy of the meter, in the evaluation of whether or not the bill is correct and appropriate.

As amended, R.1978 d.155, effective May 16, 1978.
See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).
As amended, R.1980 d.555, effective December 29, 1980.
See: 12 N.J.R. 552(a) 13 N.J.R. 105(b).
(c): Extended deferred payment opportunity to before or after discontinuance of service; 25 percent limit established.
Amended by R.1985 d.166, effective April 15, 1985.
See: 16 N.J.R. 2747(a), 17 N.J.R. 974(a).
Substantially amended.
Amended by R.1988 d.569, effective December 19, 1988.
See: 20 N.J.R. 963(b), 20 N.J.R. 3141(a).
(a): Added text "Once a formal . . ."; added (e).
Amended by R.1991 d.149, effective May 6, 1991.
See: 22 N.J.R. 619(b), 23 N.J.R. 1450(b).
Requires a utility to allow a customer at least 25 days to make payment before it could assess a late payment charge, late payment charge could be assessed only under a rate schedule approved by the Board which provides for such a charge. Prohibits late payment charges to a state, county or municipal government entity or residential customer.
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 (c); and added (g).
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), added third sentence; in (c)1, added "or from a customer of a wastewater company that meets the Class A water company revenue threshold,"; inserted references to wastewater throughout.

**Case Notes**

Credit to home owner's electric bill account was proper. Clendaniel v. Atlantic Electric Company, 94 N.J.A.R.2d (BRC) 89.

Credit to elderly couple's water bill account was proper. Mount v. Trenton Water Works, 94 N.J.A.R.2d (BRC) 86.

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

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.

### 14:3–7.14 Discontinuance of service to tenants

(a) Electric, gas, water and wastewater public utilities shall make every reasonable attempt to determine when a landlord-tenant relationship exists at premises being serviced. If such a relationship is known to exist, and if the tenants are not the customers but are end-users, as these terms are defined at N.J.A.C. 14:3–1.1, discontinuance of service is prohibited unless the utility has, notwithstanding the time periods set out in N.J.A.C. 14:3–7.12(a), given a 15–day written notice to the owner of the premises or to the customer to whom the last preceding bill was rendered. Further, the utilities shall use their best efforts to determine the names and addresses of each tenant, in order to provide such notice, for example, through mailings to landlords requesting a list of tenants. The utility shall use its best efforts to provide copies of the discontinuance notice to all tenants. In addition, the utility shall provide the tenant(s) with a 15–day written notice which shall be hand-delivered, mailed, or posted in a conspicuous area of the premises and in the common areas of multiple family premises.

(b) If a utility uses posting as the method of notice, each utility shall use its best efforts to also place a copy of the notice on each tenant's car windshield or under the door of each tenant's dwelling. In the case of tenants of single and two-family dwellings, each tenant shall also be provided with a 15–day individual notice. Each utility shall offer the tenant(s) continued service to be billed to the tenant(s) unless the utility demonstrates that such billing is not feasible. The continuation of service to a tenant shall not be conditioned upon payment by the tenant of any outstanding bills due upon the account of any other person. The utility shall not be held to the requirements of this provision if the existence of a landlord-tenant relationship could not be reasonably ascertained.

(c) When a landlord-tenant relationship is known to exist, an electric and/or gas utility, at the landlord's request, shall send written notice to the landlord that a tenant's electric or gas service is being voluntarily or involuntarily discontinued.

(d) When a landlord-tenant relationship is known to exist, an electric and/or gas utility, at the landlord's request, shall place the service in the landlord's name if the tenant's electric and/or gas service is being voluntarily or involuntarily discontinued.

(e) To participate in this program, the landlord shall complete a form provided by the utility, indicating a choice as specified in (a) or (b) above.

As amended. R.1978 d.155, effective May 16, 1978.
See: 9 N.J.R. 290(e), 10 N.J.R. 261(e).
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 section.
Amended by R.1997 d.224, effective June 2. 1997.
See: 29 N.J.R. 735(a), 29 N.J.R. 2568(b).
Added (b) through (d).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Substituted "wastewater" for "sewer".
Amended by R.2004 d.12, effective January 5, 2004.
See: 35 N.J.R. 91(a), 36 N.J.R. 200(b).
Rewrote the section.

**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.

### 14:3–7.15 Notification to municipalities of discontinuance of gas and electric service to residential customer

(a) All electric and gas public utilities shall annually notify all municipalities located within their service area that, upon request, they, and/or any enforcing agency enforcing the Uniform Fire Code (N.J.A.C. 5:18) within the municipality, will be sent a daily list of the residential customer of record and premises located within the municipality at which gas or electric service was discontinued involuntarily on the preceding day.

(b) The list referred to in (a) above shall contain the following information.

1. The name and address of every residential customer of record whose service was discontinued on the previous day for reasons other than at the customer's request and whose service remains discontinued as of 8:00 A.M. on the day the list is sent. The list shall also set forth the address of the premises where service was discontinued. Included on the list shall be those customers whose service has been discontinued for reasons such as nonpayment of bills, the absence of a customer of record, the existence of an unsafe condition, and theft of service. These examples shall not be construed as being exclusive.

2. If there is no customer of record, this fact shall be shown by indicating "unknown" next to the address of the premises.

3. If the reason for the discontinuance of service is the existence of an unsafe condition, this fact shall be indicated next to the address of the premises. All other reasons for the discontinuance of service shall not be included on the list.

4. Those customers whose service has been discontinued on a Friday, Saturday or Sunday and whose service remains discontinued as of 8:00 A.M. on the following Monday shall be included on the list sent on that Monday. If a Monday falls on a holiday on which the utility's commercial offices are closed, the list shall be sent on the next regular workday. Pursuant to N.J.A.C. 14:3–3.6(c), public utilities may not discontinue residential service for nonpayment on Friday, Saturday, Sunday or on the day before a holiday or on a holiday on which either the utility's commercial offices or the Board's offices are closed.

5. When none of the customers within the municipality has service discontinued as of 8:00 A.M. on the day the list is to be sent, the utility shall not be required to send a list or otherwise notify the municipality that there were no discontinuances. The next list subsequently sent shall state the date on which the last list was sent.

6. The date of discontinuance of service for each customer on the list.

7. Specification of whether gas and/or electric service was discontinued for each customer on the list.

(c) The list referred to in subsection (a) of this section may be sent by ordinary mail.

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

1. A breakdown of the expenses incurred in complying with this regulation in the preceding calendar year;

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

(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, natural gas, water and/or wastewater utilities under the jurisdiction of the Board of Public Utilities.

(b) Each electric, gas, water and/or wastewater 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, gas, water and/or wastewater 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. When 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, electricity, water and/or wastewater service 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, gas, water and/or wastewater 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, gas, water and/or wastewater 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 7.8. Each electric, gas, water and/or wastewater 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).
Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
Inserted "water and/or wastewater" throughout.

**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.

**14:3–7.17 Termination of residential telephone service**

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

"Basic residential local telephone charges" include charges for basic residential local telephone service, basic residential local service usage, nonrecurring charges for basic services (service ordering charges and installation charges for basic services), the Federally mandated subscriber line charges, and applicable State and Federal taxes.

"Basic residential local telephone service" (BRLTS) means voice grade access service to the public switched network, touch tone service, single party service, access to emergency services, access to operator services, access to interexchange services, access to directory assistance and repair service associated with these services, and white pages listings provided to a residential subscriber.

"InterLATA toll call" means a toll call that originates and terminates in two different LATAs, commonly known as long distance calls.

"IntraLATA toll call" means a toll call that originates and terminates in the same LATA.

"LATA" is a local access and transport area as defined by 47 U.S.C. §§ 151 et seq.

"Nonbasic residential telephone service" means any telecommunications service or product other than basic residential local telephone service. The term includes, but is not limited to, the sale or lease of customer premises equipment, inside wiring maintenance plans, custom calling services (call waiting, caller i.d., call forwarding, call return services), audiotext services, toll services, long distance service, pay-per-call services and international information or entertainment services.

(b) Termination of basic residential local telephone services shall be as follows:

1. A basic telecommunications service provider may discontinue BRLTS only for nonpayment of basic local telephone service charges.

2. When a residential customer's BRLTS charges exceed $30.00, a BRLTS provider may disconnect the service no sooner than 10 days after written notice to the customer of the provider's intention to disconnect such service. Such notice shall include a statement that informs customers of their ability to make a partial payment on the bill and that any partial payment made by the customer would be allocated according to the rules set forth in (f) below.

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

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

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

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

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

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

1. A provider of BRLTS and/or nonbasic residential telephone service may offer residential customers a credit limit option for an amount of not less than $200. This option pertains exclusively to services other than BRLTS. Pursuant to this option, a customer may incur unpaid charges for services other than BRLTS, up to the amount of the credit limit option. A customer who selects the credit limit option shall not be required to submit to the service provider the customer deposit required by N.J.A.C. 14:10-4.6. Every provider of basic or nonbasic residential local telephone service shall offer a deferred payment arrangement pursuant to (e) below to any customer who exceeds the customer's credit limit option. In the event that the credit limit is reached for a customer selecting the credit limit option, the provider of service may block or otherwise restrict access by the customer to services other than BRLTS. In such event, and notwithstanding other provisions of the tariff, no additional tariff charge for blocking or service restoral shall apply, nor shall a separate notice of discontinuance be sent by the telephone service provider.

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

i. The amount of the credit limit option;

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

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

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

(e) Payment arrangements shall be made as follows:

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

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

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

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

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

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

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

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

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

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

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

New Rule, R.2000 d.84, effective March 6, 2000 (operative September 6, 2000).
See: 31 N.J.R. 740(a), 32 N.J.R. 815(b).

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## SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

**Authority**

N.J.S.A. 48:2-13, 48:2-16, 48:2-23 and 48:2-27.

**Source and Effective Date**

R.2005 d.462, effective December 20, 2004 (operative March 20, 2005).
See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

**Subchapter Historical Note**

Subchapter 8, Extensions to Provide Regulated Services, was repealed and adopted as new rules by R.2004 d.462, effective December 20, 2004 (operative March 20, 2005). See: Source and Effective Date.

### 14:3-8.1 Scope and applicability

(a) This subchapter governs the construction of an extension, as defined at N.J.A.C. 14:3-8.2.

(b) This subchapter addresses whether and how a regulated entity may contribute financially to an extension made in response to an application for an extension by a person, as these terms are defined at N.J.A.C. 14:3-1.1 and 8.2. Any other extension is not subject to this subchapter; nor is any maintenance, repair or operation of an extension; or any expansion, upgrade, improvement, or other installation of plant and/or facilities, wherever located.

(c) This subchapter includes provisions regarding whether an extension shall be placed overhead or underground, and the extent to which a regulated entity may pay for or financially contribute to the costs of an extension. How much a regulated entity is authorized to pay for or financially contribute to an extension varies based on whether the customers that the extension will serve are located in an area not designated for growth, a designated growth area, a smart growth infrastructure incentive program (SGIIP) area, or a targeted revitalization incentive program (TRIP) area, as described at N.J.A.C. 14:3-8.12 and 14:3-10, respectively.

(d) This subchapter applies to extensions made by all regulated entities, as those terms are defined at N.J.A.C. 14:3-8.2, except that:

1. This subchapter only applies to cable television companies in the following manner. Cable television companies shall comply with the provisions of N.J.A.C. 14:3-8.1, 8.2 through 8.5, 8.6(b), 8.8 and 8.13 only; and

2. This subchapter does not apply to a portion of an extension that is regulated by the Federal Energy Regulatory Commission (FERC).

(e) This subchapter applies to construction of extensions to provide service to all customers, whether residential or nonresidential.

(f) This subchapter does not provide for a calculation of the dollar amount that a regulated entity may charge for construction of an extension. This amount is determined based on tariffs submitted to the Board by each regulated entity and approved by the Board.

(g) This subchapter is intended to fulfill the mandate at N.J.S.A. 48:2-23 that regulated entity service be safe, adequate and proper, and furnished in a manner that tends to conserve and preserve the quality of the environment. One way in which this subchapter fulfills that mandate is through provisions that generally do not permit regulated entities to invest, in response to an application for an extension, in new infrastructure in areas that are not designated for growth.

(h) Nothing in this subchapter shall require a regulated entity to construct an extension or portion thereof if the extension would not be required under N.J.S.A. 48:2-27 or other applicable law.

Amended by R.2005 d.377, effective November 7, 2005.
See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).
Rewrote (d)1.
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In (b) and (g), substituted "an extension" for "service".

**Case Notes**

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

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

### 14:3-8.1A Waiver request, operative date

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

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

New Rule, R.2004 d.462, effective December 20, 2004.
See: 36 N.J.R. 276(a), 37 N.J.R. 5928(a).

### 14:3-8.1B (Reserved)

New Rule, R.2004 d.462, effective December 20, 2004.
See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).
Repealed by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Section heading was "Submission of modified tariff".

### 14:3-8.2 Definitions

In addition to the definitions at N.J.A.C. 14:4-1.2 and 14:3-1.1, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Applicable tariff" means the tariff, filed with and approved by the Board, that covers the geographic area in which a particular development or extension is located.

"Applicant for an extension" means a person that has applied to the appropriate regulated entity, as defined at N.J.A.C. 14:3-1, for the construction of an extension as defined at N.J.A.C. 14:3-8.2.

"Area not designated for growth" means an area that is not a designated growth area as defined herein.

"Cost" means, with respect to the cost of construction of an extension, actual and/or site-specific unitized expenses incurred for materials and labor (including both internal and external labor) employed in the design, purchase, construction, and/or installation of the extension, including overhead directly attributable to the work, as well as overrides or loading factors such as those for back-up personnel for mapping, records, clerical, supervision or general office functions.

"Center designation" or "designated center" means a center that has been officially recognized as such by the State Planning Commission in accordance with its rules at N.J.A.C. 5:85 or in the Pinelands Area, a center recognized as such pursuant to a valid Memorandum of Agreement between the New Jersey Pinelands Commission and the New Jersey State Planning Commission.

"Designated growth area" means an area depicted on the New Jersey State Planning Commission State Plan Policy Map as:

1. Planning Area 1 (Metropolitan Planning Area, or PA-1);

2. Planning Area 2 (Suburban Planning Area, or PA-2);

3. A designated center;

4. An area identified for growth as a result of either an initial or advanced petition for plan endorsement that has been approved by the State Planning Commission pursuant to N.J.A.C. 5:85-7;

5. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (l) of section 6 of N.J.S.A. 13:17-6; or

6. A Pinelands Regional Growth Area, Pinelands Village or Pinelands Town, as designated in the Comprehensive Management Plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the Pinelands Protection Act, N.J.S.A. 13:18A-8.

Assistance in determining whether a particular parcel of land in a designated growth area can be obtained through the Department of Community Affairs Office of Smart Growth website at http://www.nj.gov/dca/osg/.

"Distribution revenue" means the total revenue, plus related sales and use tax, collected by a regulated entity from a customer, minus the following, as applicable:

1. For a gas public utility as defined at N.J.A.C. 14:4-2.2, basic gas supply service charges, plus related sales and use tax on the basic gas supply service charges, assessed in accordance with the gas public utility's tariff; and

2. For an electric public utility as defined at N.J.A.C. 14:4-1.2, basic generation service charges, plus sales and use tax on the basic generation service charges, and, unless

included with basic generation service charges, transmission charges derived from Federal Energy Regulatory Commission (FERC) approved Transmission Charges, plus Sales and Use Tax on the transmission charges, assessed in accordance with the electric public utility's tariff.

"Extension" means the construction or installation of plant and/or facilities by a regulated entity to convey new service from existing or new plant and/or facilities to one or more applicants for an extension to a structure that was: built, or rebuilt after an existing structure was demolished, and occupied after March 20, 2005, and also means the plant and/or facilities themselves. The provision of sewer and water service by a regulated entity shall be considered an extension regardless of the date of construction and occupancy of the structure to be served. This term includes all plant and/or facilities for transmission and/or distribution, whether located overhead or underground, on a public street or right of way, or on a private property or private right of way, including the wire, poles of supports, cable, pipe, conduit or other means of conveying service from existing plant and/or facilities to each unit or structure to be served, except as excluded at 1 through 6 below. An extension begins at the existing infrastructure and ends as follows:

1. For water service, the extension ends at the curb of the property or properties on which the customers to be served are located, but also includes the meter. Any piping, fire hydrants and branches, or other water infrastructure (with the exception of the water meter), which is within the boundary or the property or properties to be served, is not included in the extension and is the responsibility of the customer;

2. For gas service, the extension ends at the meter and includes the meter;

3. For an overhead extension of electric service, the extension ends at the point where the service connects to the building, but also includes the meter;

4. For an underground extension of electric service, the extension ends at, and includes, the meter; unless the applicant and the regulated entity make other arrangements;

5. For telecommunications service, the extension ends at the point of demarcation as defined in the regulated entity's tariff; and

6. For cable television service, the extension ends at the pole or pedestal nearest the customer's property once the extension is completed. Any infrastructure costs not included in the extension and necessary for the installation are the responsibility of the customer in accordance with the company's tariff on file with the Board.

"Generation" means the manufacture, production, extraction or creation of a substance (such as water or petroleum products), a form of energy (such as electricity), or a signal (such as a telecommunications or cable television signal).

"New Jersey State Planning Commission" means the commission established by the State Planning Act, N.J.S.A. 52:18A-196 et seq.

"Office of Smart Growth" means the Office in the Department of Community Affairs that staffs the State Planning Commission and provides planning and technical assistance as requested. The Office of Smart Growth serves the same functions as the Office of State Planning, described at N.J.S.A. 52:18A-201.

"Planning area" has the meaning assigned to the term in the rules of the State Planning Commission at N.J.A.C. 5:85-1.4. As of December 20, 2004, this term is defined in those rules to mean an area of greater than one square mile that shares a common set of conditions, such as population density, infrastructure systems, level of development, or environmental sensitivity. The State Development and Redevelopment Plan sets forth planning policies that serve as the framework to guide growth in the context of those conditions.

"Plant and/or facilities" means any machinery, apparatus, or equipment, including but not limited to mains, pipes, aqueducts, canals, wires, cables, fibers, substations, poles or other supports, generators, engines, transformers, burners, pumps, and switches, used for generation, transmission, or distribution of water, energy, telecommunications, cable television or other service that a regulated entity provides. This term includes service lines and meters, but does not include equipment used solely for administrative purposes, such as office equipment used for administering a billing system.

Amended by R.2005 d.377, effective November 7, 2005.
See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).
Added 6 to definition "Extension".
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In the introductory paragraph, inserted "14:4-1.2 and"; inserted definition "Applicant for an extension"; in definition "Cost", inserted "and/or site-specific unitized"; rewrote definitions "Distribution revenue" and "Extension".

### 14:3-8.3 General requirement to provide extensions

(a) To obtain regulated services, applicants for an extension shall apply to the appropriate regulated entity, as defined at N.J.A.C. 14:3-1.1, for construction of an extension, as defined at N.J.A.C. 14:3-8.2. Prior to accepting the application, the regulated entity shall provide the applicant with a copy of this subchapter. At the time of submittal of an application for an extension, the regulated entity shall obtain from the applicant in a signed certification that the applicant received a copy of this subchapter.

(b) If an applicant for an extension has met all applicable requirements in this chapter, a regulated entity shall install the requested extension in accordance with this subchapter. No regulated entity is required to construct an extension or to furnish service to any customer unless all applicable requirements of this subchapter have been met, unless ordered to do so by the Board.

(c) A regulated entity is not required to construct, own, operate or maintain an extension on any property unless the regulated entity is legally authorized to do so, for example through an easement or right of way. The applicant shall ensure that the regulated entity is provided with such legal authority, at no cost to the regulated entity and with no requirement for condemnation of the property.

(d) In constructing and operating an extension, a regulated entity shall use equipment and practices that meet all applicable requirements in this chapter, and which are consistent with applicable industry best practices and standards and the regulated entity's minimum system design standards. An applicant may request equipment or service which exceeds these standards. If the regulated entity provides this excess equipment or service, the regulated entity may charge the applicant for the full cost of the excess facilities requested, in accordance with N.J.A.C. 14:3-8.9(d)3.

(e) A regulated entity shall construct an extension with sufficient capacity to provide safe, adequate, and proper service to customers, in accordance with the regulated entity's and/or the industry's system design standards, even if the applicant requests less capacity.

Amended by R.2005 d.265, effective August 15, 2005.
See: 36 N.J.R. 5655(a), 37 N.J.R. 3046(b).
Rewrote (a).
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Rewrote (a).

**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).

### 14:3-8.4 Requirement to put certain extensions underground

(a) This section governs whether an extension, as defined at N.J.A.C. 14:3-8.2, shall be made underground or overhead.

(b) An extension for water or gas service shall be underground in all cases. An extension of cable television service shall be made in accordance with N.J.A.C. 14:18-2.

(c) An extension of high-capacity main line electric distribution facilities with a capacity of four megavolt amps (MVA) or more may be made overhead.

(d) An extension of electric or telecommunications service to residential development shall be made underground if both of the criteria below are met. Portions of the extension that do not meet these criteria may be made overhead:

1. The extension is located within, and will serve, a development of three or more residential units in the same geographic area that do not have electric or telecommunications service as of August 15, 2005; and

2. Either of the following criteria are met:

i. The extension will be placed along streets that were constructed after August 15, 2005; or

ii. The extension will be placed along streets constructed prior to August 15, 2005, which are not already served by overhead facilities.

(e) If a building that would require underground service under (d) above is located on a lot that abuts an existing street on which overhead facilities are already installed, the building may be served overhead, at the discretion of the regulated entity.

(f) Underground service shall be reasonably equivalent to comparable overhead service, and shall ensure that the customer will receive safe, adequate and proper service while minimizing the difference in cost between overhead and underground service. If underground service is required by this subsection, or an applicant desires underground service where it is not required under (d) or (e) above, the costs shall be distributed as follows:

1. In a designated growth area as defined by N.J.A.C. 14:3-8.2, the additional cost for underground extensions of service, over and above the amount it would cost to serve those customers overhead, shall be a nonrefundable contribution in aid of construction paid by the applicant according to N.J.A.C. 14:3-8.9(h). The remainder of the cost of the service, that is, the amount which overhead service would have cost, shall be shared between the applicant and the regulated entity in accordance with N.J.A.C. 14:3-8.

2. In an area not designated for growth, a regulated entities' ability to pay for or contribute financially to extensions is governed by N.J.A.C. 14:3-8.5 and 8.6.

(g) If unusual circumstances would unreasonably delay a regulated entity's ability to provide underground service, the regulated entity may install temporary facilities in whatever manner is most practical under the circumstances. However, the regulated entity shall replace such temporary facilities as soon as practical with permanent underground service in accordance with this subchapter. The cost of the installation and removal of the temporary facilities is governed by N.J.A.C. 14:3-8.9(h).

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

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

(j) Where affected regulated entities determine that it is practical, electric cables, communication cables, and cable

television cables shall be installed in the same trench, if this can be done consistent with all applicable codes and regulations, and in particular those pertaining to safety.

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

Repealed by R.2004 d.462, effective December 20, 2004.
See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).
Section was "Requirement to put certain extensions underground".
New Rule, R.2005 d.265, effective August 15, 2005.
See: 36 N.J.R. 5655(a), 37 N.J.R. 3046(b).
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In (g), rewrote last sentence.

### 14:3-8.5 General provisions regarding costs of extensions

(a) A regulated entity shall not pay for or financially contribute to the cost of an extension, as defined at N.J.A.C. 14:3-8.2, except in accordance with this subchapter or N.J.A.C. 14:3-10. This section applies in addition to the requirements of N.J.A.C. 14:3-8.6 or 8.7, whichever is applicable.

(b) An extension shall become the property of the regulated entity upon its completion. If an extension is paid for by an applicant in accordance with this chapter, a regulated entity shall include the extension in its contribution in aid of construction (CIAC) accounts, for accounting purposes only. The regulated entity shall record such a contribution in a manner consistent with the Uniform System of Accounts, 18 CFR Part 101, which is incorporated by reference in the rules. Amounts that a regulated entity receives in accordance with this subchapter and which are not refunded to an applicant shall be credited to the appropriate plant account or accounts.

(c) The cost of an extension for which a regulated entity receives a deposit, or receives a non-refundable contribution, shall include the tax consequences incurred by the regulated entity as a result of receiving deposits under the Tax Reform Act of 1986.

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

(e) Each regulated entity shall submit for Board approval a proposed tariff containing charges for services, including installation of underground service. The regulated entity shall periodically submit updated tariffs on its own initiative or as requested by the Board.

(f) If an applicant requests an extension to serve both a designated growth area and an area not designated for growth, the regulated entity shall pay for the portion of the extension that is necessary for and will be used to serve a designated growth area in accordance with N.J.A.C. 14:3-8.7. The regulated entity shall pay for or contribute financially to the portion of the extension that will serve the area not designated for growth only in accordance with (h) below.

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

(h) There may be a case where an applicant requests an extension and the regulated entity wishes to construct additional capacity over that required under N.J.A.C. 14:3-8.3(e). If a regulated entity chooses to construct an extension or portion of an extension with additional capacity, over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may pay for or contribute financially to the incremental cost of the additional capacity, or may require an applicant in an area not designated for growth to pay for it. However, if any of the additional capacity is added to serve anticipated customers in an area not designated for growth, the Board will consider this fact when considering whether the investment in additional capacity was reasonable and prudent, in determining whether to allow the regulated entity to include the cost of the additional capacity in its rate base.

(i) This subchapter does not prohibit a regulated entity from constructing an extension or performing related services in exchange for compensation. A regulated entity may contract with an applicant for an extension to design, purchase, construct or maintain an extension on behalf of the applicant. However, the regulated entity shall be paid for the cost of constructing or installing the extension, in accordance with this subchapter.

(j) A regulated entity shall charge customers in a designated growth area only for costs related to the portion of an extension that is necessary for and will be used to serve the designated growth area.

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

(*l*) A regulated entity may base the cost of an extension, for the purpose of determining the amount of the required

deposit or non-refundable contribution, on site-specific unitized costs. The regulated entity shall determine the site-specific unitized cost by:

1. Sending a qualified representative to the site;

2. Developing a work plan that includes a list of materials needed based upon the actual extension to be constructed;

3. Multiplying the quantity of each type of item on the list of materials by the cost per unit for that type of item. The cost per unit for each item listed shall reflect the material cost of that item as well as the associated labor as set forth in the definition of cost at N.J.A.C. 14:3-8.2; and

4. Adding up the results obtained under (*l*)3 above.

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In (c), deleted "estimated" preceding "cost"; in (h), substituted "an" for "the" preceding "applicant" and inserted "in an area not designated for growth"; in (i), substituted "an extension" for "service"; and added (*l*).

### 14:3-8.6 Costs for extension serving an area not designated for growth

(a) This section governs a regulated entity's authority to pay for or contribute financially to an extension or portion thereof, which has been requested solely to serve development in an area not designated for growth, as defined at N.J.A.C. 14:3-8.2. The section phases out a regulated entity's authority to pay for such an extension or portion thereof. The requirements in this section apply in addition to those of N.J.A.C. 14:3-8.5.

(b) If a regulated entity chooses to construct additional capacity, not requested by the applicant and greater than the capacity required under N.J.A.C. 14:3-8.3(e), the cost of that additional capacity shall not be governed by this section but shall be governed by N.J.A.C. 14:3-8.5(h).

(c) During the three-year phasing out period, a regulated entity may choose not to contribute to an extension or portion thereof, described at (a) above, or may choose to contribute in accordance with the adjusted formula set forth at (e) or (f) below, as applicable.

(d) Beginning March 20, 2005 and ending January 1, 2006, if a regulated entity chooses to contribute to an extension described at (a) above, the regulated entity shall contribute financially to the extension in accordance with N.J.A.C. 14:3-8.7, except that if the suggested formula at N.J.A.C. 14:3-8.10 or 8.11 is applied, each refund to the applicant shall be calculated by multiplying annual distribution revenue from each customer by the following, rather than by 10:

1. For extensions of water service, by 1.5; and

2. For extensions of all other regulated services, by three.

(e) Beginning January 1, 2006 and ending January 1, 2007, if a regulated entity chooses to contribute to an extension described at (a) above, the regulated entity shall contribute financially to the extension in accordance with N.J.A.C. 14:3-8.7, except that if the suggested formula at N.J.A.C. 14:3-8.10 or 8.11 is applied, each refund to the applicant shall be calculated by multiplying annual distribution revenue from each customer by the following, rather than by 10:

1. For extensions of water service, by .75; and

2. For extensions of all other regulated services, by 1.5.

(f) After January 1, 2007, a regulated entity shall not pay for or financially support an extension or portion thereof described at (a) above except pursuant to an exemption under N.J.A.C. 14:3-8.8, and in addition the Board shall not consider the cost of the extension when determining the regulated entity's rates under N.J.S.A. 48:2-21.

### 14:3-8.7 Costs for extension serving a designated growth area

(a) This section governs the regulated entity's authority to pay for or contribute financially to an extension or portion thereof that has been requested in order to serve development in a designated growth area, as described at (b) below. The requirements in this section apply in addition to the requirements of N.J.A.C. 14:3-8.5.

(b) If an extension is part of a project that the Board has approved for inclusion in a Targeted Revitalization Incentive Program (TRIP) under N.J.A.C. 14:3-10, the cost of the extension shall not be governed by this section but shall be governed by N.J.A.C. 14:3-10, as applicable. The cost of an extension that will serve development in an area not designated for growth is governed by N.J.A.C. 14:3-8.6. If a regulated entity chooses to construct additional capacity, not requested by the applicant and greater than the capacity required under N.J.A.C. 14:3-8.3(e), the cost of that additional capacity shall not be governed by this section but shall be governed by N.J.A.C. 14:3-8.5(h).

(c) The cost of an extension described at (a) above shall be determined by mutual agreement between the regulated entity and the applicant. If a regulated entity and an applicant cannot agree upon a financial arrangement regarding the cost of an extension, either party may petition the Board to apply the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

(d) For an extension described at (a) above, a regulated entity may require a deposit from an applicant in accordance with N.J.A.C. 14:3-8.10(b) or 8.11(b), as applicable. The regulated entity shall refund the deposit to the applicant in accordance with the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Rewrote (d).

### 14:3-8.8 Exemptions from cost limits on areas not designated for growth

(a) The following shall be exempt from the requirements for costs of extensions to serve development in an area not designated for growth at N.J.A.C. 14:3-8.6:

1. Natural gas conversions, as described in (c) below;

2. An extension serving certain agricultural buildings, as described in (d) below;

3. A prior agreement or Board order requiring a regulated entity to provide certain extensions without charge, as described at (e) below;

4. An extension already in progress as of March 20, 2005, as described in (g) below;

5. When it is necessary to reestablish an equivalent level of service to an existing customer after the structure receiving that service was damaged or destroyed by a force outside the control of the customer or regulated entity such as a fire, flood or hurricane.

6. A project that will provide a significant public good, as described in (h) below; and

7. A project for which compliance would cause extraordinary hardship, as described in (i) below.

(b) An exemption described at (a)1 through 5 above shall not require prior written approval from the Board. An exemption described at (a)6 or 7 above shall require prior written approval from Board staff.

(c) An extension of natural gas service shall be exempt from the requirements for costs of extensions to serve development in an area not designated for growth at N.J.A.C. 14:3-8.6, provided that the sole purpose of the extension is to allow for replacement of existing appliances powered by energy sources other than natural gas with natural gas appliances, in one or more structures that were built and occupied prior to August 15, 2005, or were built and occupied at least 15 years prior to the date of the application for the extension.

(d) An extension with the sole purpose of serving an agricultural building or structure whose sole use is the production, storage, packing or processing of agricultural or horticultural products, provided that a majority of these products were produced on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3, or an extension with the sole purpose of serving an agricultural irrigation system on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3, shall be exempt from the limits at N.J.A.C. 14:3-8.6. The costs for an extension covered by this subsection shall be governed by the requirements for extensions to serve a designated growth area at N.J.A.C. 14:3-8.7.

(e) If a regulated entity has entered into a prior written agreement with the Board that requires the regulated entity to provide certain extensions without charge, or has been ordered by the Board to provide certain extensions without charge, those extensions shall be exempt from the limits at N.J.A.C. 14:3-8.6. For an agreement or Board order to qualify for this exemption, the agreement shall have been executed March 20, 2005.

(f) If the Board has, prior to March 20, 2005, executed a binding agreement providing for a regulated entity to contribute financially to an extension, the regulated entity may contribute financially to the extension, to the extent required for compliance with the prior agreement. However, this exemption does not cover a telecommunications infrastructure upgrade project serving areas not designated for growth under the Plan of Alternative Regulation, approved by Board Order issued under Docket No. TO92030358.

(g) If construction of an extension, or the installation of any temporary service, has begun prior to March 20, 2005, or if a regulated entity has committed in writing to pay for or financially support the extension, prior to March 20, 2005, the extension shall be exempt.

(h) To obtain an exemption based on a significant public good, a person shall demonstrate to the Board that all of the following criteria are met:

1. The project or activity served by the extension would provide a significant benefit to the public or to the environment;

2. That the project described in (h)1 above is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth. In making this determination, the Board will consult with the Office of Smart Growth and other State agencies; and

3. There is no practicable alternative means of providing the benefit while still complying with this subchapter.

(i) To obtain an exemption based on extraordinary hardship, a person shall demonstrate to the Board that all of the following criteria are met:

1. Compliance with this subchapter would cause an extraordinary hardship;

2. The extraordinary hardship results from unique circumstances that do not apply to or affect other projects in the region;

3. The unique circumstances arise from the project itself and not from the circumstances or situation of the regulated entity or its customers; and

4. Neither the extraordinary hardship nor the unique circumstances are the result of any action or inaction by the regulated entity, its shareholders, or its customers.

(j) The cost of an extension that is exempt under this section shall be distributed as follows:

1. If an extension is eligible for an exemption based on a prior agreement or Board order under (e) above, the regulated entity shall pay for or financially contribute to the extension only to the extent required by the prior

agreement or Board order. To the extent that the prior agreement does not specify the distribution of costs for the extension, the requirements for extensions that serve an area not designated for growth at N.J.A.C. 14:3-8.6 shall govern;

2. If an extension is eligible for an exemption based on an extension in progress under (f) above, the regulated entity shall pay for or financially contribute to the extension only to the extent that it previously committed to do so in a written agreement. To the extent that the regulated entity has not committed to pay for the extension, the requirements for extensions shall serve an area not designated for growth at N.J.A.C. 14:3-8.6 shall govern;

3. For an exemption based on significant public good or extraordinary hardship, the Board shall determine the distribution of costs for the extension at the time of approval of the exemption; and

4. For any exemption not covered at (j)1, 2, or 3 above, the regulated entity shall pay for or financially contribute to an extension in accordance with the requirements at N.J.A.C. 14:3-8.7 governing extensions in a designated growth area.

Amended by R.2005 d.265, effective August 15, 2005.
See: 36 N.J.R. 5655(a), 37 N.J.R. 3046(b).
Added new (a)1 and new (c).
Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Rewrote the section.

### 14:3-8.9 Designated growth area suggested formulae—general provisions

(a) Board staff will apply the suggested formula only if all of the following criteria are met:

1. The extension is subject to N.J.A.C. 14:3-8.7;

2. The extension is not included in a Board-approved TRIP program; and

3. Either the regulated entity or the applicant for an extension submits a request to Board staff to apply the suggested formula, based on the parties' inability to reach agreement upon the amount of the regulated entity's financial contribution to the extension.

(b) If a regulated entity or applicant requests application of the suggested formula to an extension to serve any type of development other than a single residential customer, Board staff shall apply the formula at N.J.A.C. 14:3-8.10. If a regulated entity or applicant requests that Board staff apply the suggested formula to an extension to serve only a single residential customer, Board staff shall apply the formula in N.J.A.C. 14:3-8.11.

(c) For both types of formulae (single residential customer and other), the applicant shall provide the regulated entity with a deposit. The amount of the deposit shall be determined according to the provisions for multi-unit developments at N.J.A.C. 14:3-8.10 or for single residential customers at N.J.A.C. 14:3-8.11, as applicable. The regulated entity shall then construct the extension, and shall refund the portions of the deposit that are refundable under (g) below according to the formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

(d) For purposes of determining the amount of the deposit and applying the suggested formula, the following shall apply:

1. The regulated entity shall estimate the cost of the extension in accordance with the applicable tariff, and shall include the tax consequences incurred by the regulated entity under the Tax Reform Act of 1986 as a result of receiving the deposit;

2. The regulated entity shall assume that the electric service connection to each building will be at the nearest corner of the building to the point at which the service enters the property;

3. If an applicant requests service that costs more than that which is standard under the regulated entity's and/or the industry's system design standards, or if an extension presents an unusual situation in which providing standard service is substantially more expensive than usual, the regulated entity may charge the applicant or the customer for the extra expense. In accordance with (h) below, this charge is not refundable. For example, for an underground extension, costs of pavement cutting and restoration, rock removal, blasting, or unusual or difficult digging conditions requiring equipment and methods not generally used may be charged to the applicant. In such a case, the regulated entity shall not charge the applicant more than the actual cost for the extra work required; and

4. If the extension requires a regulated entity to pay an attachment charge for the use of utility poles located on private property and not owned by the regulated entity, the regulated entity may include the cost of the attachment charge when calculating the cost of the extension.

(e) The regulated entity shall notify the applicant of the actual cost of the extension within 30 days after the actual costs are known, and as soon as reasonably practical after construction is completed. As the application process and the construction proceeds, the amount of the deposit shall be adjusted as needed to reflect the actual cost. If the amount of the deposit exceeds actual costs at the completion of construction, the regulated entity shall return any excess. If the deposit is less than actual costs, the applicant shall provide the necessary additional funds to the regulated entity.

(f) Any amount not refunded within 10 years after the date upon which the regulated entity is first ready to render service from the extension shall remain with the regulated entity. In no event shall a regulated entity refund more than the total deposit amount to the applicant.

(g) The following portions of a deposit shall be refundable under the suggested formula:

1. For any extension, the cost of the portion of the extension that runs from existing infrastructure to the boundary of the property on which the new customers to be served are located (that is, to the subdivision gate; or for an individual lot, to the curb of the lot);

2. For an extension of gas infrastructure, the cost of the portion of the extension that is within the boundary of the property or properties on which the new customers to be served are located; and

3. For an underground or overhead extension of electricity or telecommunications service, the amount it would cost to serve the customers overhead.

(h) The following portions of the deposit are nonrefundable and shall constitute a contribution in aid of construction (CIAC):

1. For all extensions, the cost of extra service, or of extra work required to provide standards service, in accordance with N.J.A.C. 14:3-8.9(d)3; and

2. For an underground extension of electricity or telecommunications service, the additional cost for underground service over and above the amount it would cost to serve those customers overhead. This shall include the cost of any temporary overhead installation and/or removal under N.J.A.C. 14:3-8.4(g).

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In (a)3, substituted "an extension" for "service"; in (g)3, inserted "or overhead"; and in (h)2, inserted "and/or removal" and substituted "(g)" for "(h)".

### 14:3-8.10 Designated growth area suggested formula—multi-unit or nonresidential development

(a) This section governs how Board staff will apply the suggested formula to the cost of an extension that is subject to N.J.A.C. 14:3-8.7, except for an extension for a single residential customer, which is covered under N.J.A.C. 14:3-8.11, an extension covered by a SGIIP under N.J.A.C. 14:3-8.12, or an extension included in a Board-approved TRIP under N.J.A.C. 14:3-10. The requirements in this section apply in addition to the requirements of N.J.A.C. 14:3-8.9.

(b) The deposit required for an extension subject to this section shall be the cost of the extension required to serve the development. Prior to construction of the extension, the regulated entity shall notify the applicant of its estimated cost to construct an extension to serve the development for which service is requested.

(c) For purposes of calculating the amount of the deposit, the development for which service is requested shall be determined by reference to the subdivision map approved by the applicable local authorities. If a development is to be approved and constructed in phases, the applicant shall indicate which phases are to be treated as separate developments for purposes of determining the deposit and applying the suggested formula.

(d) As each customer begins receiving services, the regulated entity shall refund a portion of the deposit to the applicant. For each customer, this customer startup refund shall be the estimated annual distribution revenue that will result from the customer, multiplied by 10.

(e) One year after the regulated entity received the deposit, and each subsequent year thereafter, the regulated entity shall provide an annual refund to the applicant. The first annual refund shall be calculated in accordance with (f) below. Subsequent annual refunds shall be calculated under (g) below.

(f) The first annual refund shall be calculated by multiplying by 10 the difference between:

1. The distribution revenue from all customers that were served by the extension for the entire previous year; and

2. The estimated annual distribution revenue, upon which the original customer startup refund was based, for all customers that were served by the extension for the entire previous year. If the distribution revenue for the first year, determined under (f)1 above, was less than the estimated annual distribution revenue (upon which the original customer startup refund amount was based), the regulated entity is not required to provide an annual refund.

(g) For each subsequent year, the annual refund shall be calculated as follows:

1. Sum the distribution revenue from all customers that were served by the extension for the entire previous year;

2. Determine the sum of:

i. The distribution revenue that was used in calculating the most recent annual refund provided to the applicant. This is the amount determined under (g)1 above when this subsection was applied to determine the most recent annual refund; and

ii. The original estimated annual revenue for all customers that were served by the extension for the entire previous year, but whose revenues were not included in the calculation of the most recent annual refund that the regulated entity provided to the applicant;

3. Subtract (g)2 above from (g)1 above. If the (g)2 above is greater than (g)1 above, the regulated entity is not required to provide a refund; and

4. If (g)2 above is less than (g)1 above, multiply the difference derived under (g)3 above by 10 to determine the annual refund.

(h) In determining the revenue from a customer or set of customers for purposes of the suggested formula, the regulated entity may in its discretion use estimated or actual revenues, unless otherwise specified in this subchapter.

(i) See examples A1 and A2 below for an illustration of the use of the suggested formula for some sample multi-unit developments.

2. If the suggested formula is used, the regulated entity shall apply the expedited refund formula described at (c) below to the costs of an extension, as defined at N.J.A.C. 14:3-8.2, or a relocation, upgrade, or expansion of infrastructure, that meets the requirements at (c) below.

(b) A SGIIP area is any area in a municipality that is located in planning area 1, and for which the municipality has obtained appropriate formal endorsement from the State Planning Commission.

(c) In a SGIIP area, an extension serving development in the SGIIP area shall be covered in the same manner as an extension serving a designated growth area under N.J.A.C. 14:3-8.1 through 8.11, except that if the suggested formula is applied, the following differences shall apply:

1. The rate at which deposits are refunded to the applicant shall be 20 times annual distribution revenue, rather than 10 times; and

2. In determining the amount of a deposit under N.J.A.C. 14:3-8.11 for a single residential customer, the calculation at N.J.A.C. 14:3-8.11(b) shall multiply annual distribution revenue by 20 times rather than by 10 times; and

3. Any costs that a regulated entity charges to an applicant for the relocation, upgrade, or expansion of infrastructure to serve a development for which the regulated entity is also providing an extension shall be considered part of the deposit. The regulated entity shall refund such costs at a rate of 20 times annual distribution revenue as described in the suggested formulae at N.J.A.C. 14:3-8.10 and 8.11.

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
In the introductory paragraph of (a), substituted "to cover" for "by which the Board may authorize coverage of".

### 14:3-8.13 Enforcement

Noncompliance with this subchapter shall subject the violator to penalties and other enforcement action in accordance with applicable law.

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## 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 of charges" or "tariffs" to permit bidding exemption. In re: Application of Saddle River Boro., 71 N.J. 14, 362 A.2d 552 (1976).

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

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

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

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

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## SUBCHAPTER 10. TARGETED REVITALIZATION INCENTIVE PROGRAM (TRIP)

**Authority**

N.J.S.A. 48:2-13, 48:2-16, 48:2-23 and 48:2-27.

**Source and Effective Date**

R.2004 d.462, effective December 20, 2004 (operative March 20, 2005).
See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

### 14:3-10.1 Purpose and scope, general provisions

(a) This subchapter establishes a Targeted Revitalization Incentive Program, or TRIP, which is a pilot program intended to remove infrastructure-related barriers to development in certain areas designated for growth. Under a TRIP, the Board may, on a pilot basis, authorize a regulated entity to charge customers for the costs of installing certain infrastructure in a specific area in order to build the necessary capacity to serve planned and prospective development that is described in a municipal master plan, and is approved by the State Planning Commission in accordance with this section.

(b) The purpose of a TRIP is to remove barriers to development and redevelopment in targeted areas when that development is consistent with the State Development and Redevelopment Plan, and with local plans and zoning. By ensuring that infrastructure for development in targeted smart growth areas is in place, on time, at no cost to developers, TRIP will eliminate delays and expense that may otherwise prevent beneficial smart growth development.

(c) This subchapter does not apply to cable television operators.

(d) The Board shall require frequent and detailed monitoring and reporting of construction and expenditures during all phases of the TRIP, in order to ensure prudent investment and compliance with this chapter.

(e) All petitions to the Board regarding TRIP activities shall be jointly submitted by the regulated entity and the municipality.

(f) This subchapter shall become operative on March 20, 2005.

### 14:3-10.2 "TRIP area" defined

(a) "TRIP area" means an area that meets one or more of the following criteria:

1. The area is within a Planning Area 1 and the municipality has received initial plan endorsement for the area from the State Planning Commission in accordance with N.J.A.C. 5:85-7.1; and

2. The area is within a Planning Area 2, 3, 4, or the municipality has received advanced plan endorsement for the area from the State Planning Commission in accordance with N.J.A.C. 5:85-7.1, and the Office of Smart Growth has recommended consideration of the area for a TRIP.

### 14:3-10.3 Investments eligible for coverage under a TRIP

(a) To be eligible for coverage under a TRIP, infrastructure shall be designed, constructed and used solely to serve one or more of the following:

1. Anticipated new customers located in a TRIP area;

2. A number of additional customers served in a TRIP area, resulting from an increase in the density of land use. For the purposes of this section, the density of land use shall be measured by the number or square footage of residential units, or by the square footage of non-residential space; or

3. Anticipated new customers located in both the TRIP area and also other areas. In such a case the TRIP shall cover investments only for the portion of the infrastructure that is necessary for and will be used to serve the TRIP area. This shall be calculated in accordance with N.J.A.C. 14:3-10.7.

(b) To be eligible for coverage under a TRIP, infrastructure shall, in addition to meeting the requirements of (a) above, meet both of the following criteria:

1. The investments shall reflect actual expenditures made by the regulated entity prior to the submittal of an annual TRIP adjustment petition pursuant to N.J.A.C. 14:3-10.5, to cover the investments; and

2. The investments shall be consistent with the utility infrastructure plan and one year work plan submitted under N.J.A.C. 14:3-10.4(b), as approved by the Board, or shall comply with N.J.A.C. 14:3-10.4(g)2.

(c) A regulated entity shall not recover the following costs through a TRIP:

1. Any construction, installation, replacement or rehabilitation of infrastructure that is necessary to provide safe, adequate and proper service to existing customers;

2. Any investment that does not reflect reasonable and prudent costs;

3. Rehabilitation of infrastructure that is fully depreciated and is near the end of its useful life;

4. Replacement of infrastructure that is fully depreciated and is near the end of its useful life, except in accordance with (d) through (f) below;

5. Costs incurred in connection with the retirement from service and the disposition of existing depreciated infrastructure including costs incurred for plant that is abandoned or retired in place;

6. Promotional expenses;

7. Costs incurred in order to comply with regulatory requirements, for example, legal fees, or costs for preparation of petitions and filings; or

8. Any investments in portions of the TRIP area where the municipality does not anticipate growth, as show in the municipal master plan and development plan or redevelopment plan.

(d) In accordance with (c)4 above, a portion of the cost of replacement infrastructure shall be eligible for recovery through TRIP if it will be used to serve current customers and prospective customers in a TRIP area, in accordance with (e) below. If the replacement infrastructure is not needed to serve new customers envisioned by the endorsed plan and build out analysis submitted under N.J.A.C. 14:3-10.4(b), it shall not be recoverable through the TRIP charge. Replacement of infrastructure that will solely serve portions of the TRIP area where growth is not anticipated by the municipality shall not be eligible for recovery through the TRIP charge. In addition, the cost of replacing existing services and meters necessary to connect with the replacement infrastructure shall be included in the replacement costs in accordance with (e) below.

(e) If replacement infrastructure will be used to serve current customers and prospective customers in a TRIP area, a portion of the cost shall be eligible for recovery through TRIP. To determine the recoverable portion, the Board shall divide the capacity needs of the current customers by the capacity needs of both the current and anticipated new customers, and shall multiply that result by the total cost of the infrastructure. For example, if current gas customers will need 100 therms, anticipated new gas customers will need 200 therms, and the new pipe will deliver 1,000 therms, the total cost of the replacement pipe will be divided as follows: one-third to the regulated entity and two-thirds to the TRIP (recovery through the TRIP charge), not one-tenth to the regulated entity and nine-tenths to the TRIP charge. For the purpose of this subsection, the number and type of anticipated new customers shall be those envisioned by the endorsed plan and build out analysis submitted under N.J.A.C. 14:3-10.4(b).

(f) For the purposes of this subchapter, a class of infrastructure shall be considered fully depreciated at the point at which the composite depreciation rate for the class of infrastructure, multiplied by the number of years that the infrastructure has been in service, is greater than or equal to one. The composite depreciation rate for infrastructure shall be that determined by the Board in the regulated entity's most recent rate case.

(g) Infrastructure investments not covered by the TRIP shall be governed by the applicable provisions for extensions at N.J.A.C. 14:3-8.

Amended by R.2006 d.342, effective September 18, 2006.
See: 37 N.J.R. 4188(a), 38 N.J.R. 3908(a).
Rewrote (b)1 and (c)5.

### 14:3-10.4 Initial Board approval of a TRIP

(a) This section sets forth the process by which the Board may authorize, on a pilot basis, coverage of certain infrastructure costs under a Targeted Revitalization Incentive Program (TRIP). Under a TRIP, the Board may authorize a regulated entity to recover costs of infrastructure installed in a TRIP area through a TRIP charge approved under this subchapter.

(b) To obtain Board approval of a TRIP, a regulated entity and a municipality shall jointly apply to the Board and shall present the following information in a format provided by the Board:

1. Evidence that the municipality has obtained the applicable designation or endorsement required for a TRIP area from the State Planning Commission;

2. A description of the planning areas in the municipality;

3. A copy of the current municipal master plan, zoning and relevant ordinances, any relevant development or redevelopment plans, and a build out analysis for the TRIP area, that describe exactly what new development the municipality is planning for in terms of new residential units or new square feet of commercial or industrial space;

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 described 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) × DEP) + (ERI made during the first and second Investment Years) × 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 percent + .6 percent) × (1 – 40.85 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)

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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.

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SUBCHAPTER 13. INTEREST ON DEFERRED BALANCES OF LEVELIZED ENERGY ADJUSTMENT CLAUSES, LEVELIZED GAS ADJUSTMENT CLAUSES, PURCHASED WATER ADJUSTMENT CLAUSES AND PURCHASED WASTEWATER TREATMENT ADJUSTMENT CLAUSES

**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" has the same meaning as the term "base cost of purchased wastewater treatment," as defined in N.J.A.C. 14:9-7.2.

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

"Deferred accounting" has the same meaning as defined in N.J.A.C. 14:9-7.2.

"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 Wastewater Treatment Adjustment Clause" or "PWTAC" has the same meaning as the term "purchased wastewater treatment adjustment clause," as defined in N.J.A.C. 14:9-7.2.

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

Amended by R.2002 d.280, effective September 16, 2002.
See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).
In "Base cost of purchased sewerage treatment", rewrote the first sentence; in "Deferred accounting treatment" and "Purchased Sewerage Adjustment Clause", substituted "wastewater" for "sewer".
Amended by R.2006 d.367, effective October 16, 2006.
See: 38 N.J.R. 1538(a), 38 N.J.R. 4490(b).
Rewrote definitions "Base cost of purchased sewerage treatment", "Base cost of purchased water" and "Deferred accounting"; deleted first occurrence of definition "Purchased Sewerage Treatment Adjustment Clause"; substituted definition "Purchased Wastewater Treatment Adjustment Clause" for second occurrence of "Purchased Sewerage Treatment Adjustment Clause"; and added definition "Purchased Water Adjustment Clause".

**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.