

CHAPTER 9**SEWER AND WATER****Authority**

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

Source and Effective Date

R.1996 d.207, effective March 29, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Executive Order No. 66 (1978) Expiration Date

Chapter 9, Sewer and Water, expires on March 29, 2001.

Chapter Historical Note

Unless otherwise expressly noted, all provisions of Chapter 9, Sewer and Water, were adopted by the Board of Public Utility Commissioners, pursuant to authority delegated at N.J.S.A. 48:2-13 et seq. and were filed and became effective prior to September 1, 1969.

Subchapter 6, Small Water Company Takeover Act Regulations, was adopted as R.1985 d.182, effective April 15, 1985. See: 16 N.J.R. 3380(a), 17 N.J.R. 910(a).

Pursuant to Executive Order No.66(1978), Chapter 9 expired on April 15, 1990. A new Chapter 9, Sewer and Water, was adopted as R.1991 d.179, effective April 1, 1991. See: 22 N.J.R. 907(a), 23 N.J.R. 1012(a).

Subchapter 7, Purchased Water Adjustment Clause, and Subchapter 8, Purchased Sewerage Treatment Adjustment Clause, were adopted as R.1991 d.488, effective October 21, 1991. See: 23 N.J.R. 946(b), 23 N.J.R. 3171(a).

Pursuant to Executive Order No. 66(1978), Chapter 9 was readopted as R.1996 d.207, effective March 29, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PLANT**14:9-1.1 Plant construction**

The construction and installation of plant and facilities of sewer and water utilities must be in accordance with N.J.A.C. 14:3-2.1, Plant construction, and, in addition, must be in accordance with standard specifications as set forth by the American Water Works Association and the rules of the New Jersey Department of Environmental Protection, as applicable. When and if any controversy arises as to the necessity for adopting specifications calling for construction of a higher standard, the matter may be referred to the Board for determination.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

14:9-1.2 Inspection of property

(a) Each utility shall inspect each valve in the system periodically to determine its accessibility for operation, and its operating condition. Large valves, 12-inch and over, shall be inspected once every two years and other valves once every four years.

(b) Each water utility shall, once a year, test every hydrant to determine its working condition. It shall also formulate and put into practice a comprehensive and definite plan for flushing hydrants and dead ends of mains. This plan for flushing may be combined with the periodical testing of hydrants.

(c) A record of all inspections and tests shall be kept for a period of not less than five years.

SUBCHAPTER 2. SERVICE**14:9-2.1 Service connections**

(a) Upon making service connections, the tapping of the main shall be done; and the curb cock and couplings, the service lines from main to curb, and curb box and/or the connection to the collecting main and the service from the collecting main to the curb, shall be furnished by the utility or its agent at the expense of the utility. The exact cost of the remainder of the service connection shall be paid by the customer, and the said remainder shall be placed by the customer or by agreement between the customer and the utility, by the utility or its agent; provided, however, that if placed by the customer it shall conform to reasonable specifications prescribed by the utility.

(b) Whenever a connection from main to curb is made through which regular service is not immediately desired, except during the course of construction, the customer shall bear the entire expense of making the connection but shall be entitled to a refund for such part of the cost as the utility is hereinbefore required to assume whenever regular service is begun within 10 years of the installation of the connection.

Case Notes

Water and sewer lines from a structure to the public easement connections are private property of the structure owner and located on private property; for State to make these connections absent owner's consent, it must exercise eminent domain power; relocation of lines by State not permitted in lieu of damages to owner. *State v. Sun Oil Co.*, 160 N.J.Super. 513, 390 A.2d 661 (Law Div.1978).

Petitioner's practice of charging service connection fee to new customers contrary to regulation. In re: *Califon Water Co.*, 1 N.J.A.R. 414 (1980).

14:9-2.2 Pressure and volume of water service

(a) Each water utility shall supply water service at adequate pressure and volume to the curb, or the point of connection with the customer's service line.

(b) Each water utility shall maintain sufficient pressure and volume of water at all fire hydrants to assure adequate streams for the fighting of fires.

Case Notes

Water company that undertakes to supply water within designated and protected market can fairly be charged with duty to assure that its delivery system is in working order to furnish adequate supply for all purposes, to the extent of its capabilities; however, to extent that claims for losses caused by negligent failure to maintain adequate water pressure are insured and assigned, insurer's subrogation claims are unenforceable against water company. *Ebert v. South Jersey Gas Co.*, 260 N.J.Super. 104, 615 A.2d 294 (L.1992).

Private water company was immune from liability for fire insurance companies' subrogation claims arising from its negligent failure to maintain adequate water pressure for fire fighting, overruling *Reimann v. Monmouth Consol. Water Co.*, 9 N.J. 134, 87 A.2d 325; *Sydney Grossman Hotel Corp. v. Lakewood Water Co.*, 27 N.J. 91, 141 A.2d 541; *Brooks v. City of Orange*, 61 N.J. 576, 297 A.2d 1; *J.H.M. Realty Corp. v. Town of Belleville*, 61 N.J. 577, 297 A.2d 2; calling into doubt *Baum v. Somerville Water Co.*, 84 N.J.L. 611, 87 A. 14 (E. & A.); *Atlas Finishing Co. v. Hackensack Water Co.*, 10 N.J.Misc. 1197, 163 A. 20 (Sup.Ct.); rejecting *German Alliance Ins. Co. v. Home Water Supply Co.*, 226 U.S. 220, 33 S.Ct. 32, 57 L.Ed. 195; *Stuart v. Crestview Mut. Water Co.*, 34 Cal.App.3d 802, 110 Cal.Rptr. 543 (2 Dist.); *Libbey v. Hampton Water Works Co., Inc.*, 118 N.H. 500, 389 A.2d 434; *H.R. Moch Co., Inc. v. Rensselaer Water Co.*, 247 N.Y. 160, 159 N.E. 896; *Rose v. Sapulpa Royal Water Co.*, 631 P.2d 752 (Okl.). *Weinberg v. Dinger*, 106 N.J. 469, 524 A.2d 366 (1987).

14:9-2.3 Quality of water

Each water utility shall furnish water free of excess impurities or sedimentation and shall make every effort to assure that its product is potable and uncolored.

14:9-2.4 Sewage treatment

Each sewer utility shall provide sewer service in such a manner as to prevent escape of offensive odors, the overflow of effluent and the discharge of any untreated sewage. Each such utility shall operate its facilities in such a manner as to eliminate possible danger to public health and welfare.

SUBCHAPTER 3. METERS**14:9-3.1 Testing of water meters**

Each utility having more than 100 meters in use shall provide and maintain suitable and adequate facilities for testing its water service meters, including complete testing equipment of a form approved by the Board. Utilities may cooperate in arranging for such facilities. No equipment shall be used in testing meters unless it shall have been examined, calibrated and sealed by the New Jersey Office of Weights and Measures at least once every five years. Appropriate evidence of such examination, calibration and sealing shall be affixed to the equipment.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Provided for examination of testing equipment at least every five years.

14:9-3.2 Periodic testing of water meters

(a) Unless it has been otherwise authorized by the Board, no utility furnishing metered water service shall allow a meter to remain in service for a period longer, or for a registration greater, than that specified in the table below without checking it for accuracy and readjusting it if found to be incorrect beyond the limits established in Section 3 (Determination of water meter accuracy) of this Subchapter:

1. $\frac{5}{8}$ inch meter, ten years or 750,000 gallons;
2. $\frac{3}{4}$ inch meter, eight years or 1,000,000 gallons;
3. One inch meter, six years or 2,000,000 gallons;
4. All meters above one inch, four years.

14:9-3.3 Determination of Water Meter Accuracy

(a) A water meter shall be considered correct if, when flowing water at both intermediate and full flow capacities, as set forth in the American Water Works Association M-6 Manual, it shows an error which is not greater than one and one half percent.

(b) An error at any flow capacity in excess of one and one half percent shall be subject to an adjustment of charges as defined in N.J.A.C. 14:3-4.7.

Amended by R.1991 d.147, effective May 6, 1991.

See: 22 N.J.R. 618(a), 23 N.J.R. 1449(a).

Adopted one and one half percent error margin.

Case Notes

Water companies corroborative meter evidence supports customer billing. *Moretti v. Hackensack Water Company*, 97 N.J.A.R.2d (BRC) 7.

Customers were not overcharged for water consumption, even though bill in question was four times higher than average consumption on customers' account; bill reflected reading obtained from meter which testing determined to be accurate. *Miele and Mooney v. Shorelands Water Company*, 96 N.J.A.R.2d (BRC) 65.

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.

SUBCHAPTER 4. (RESERVED)**SUBCHAPTER 5. UNIFORM SYSTEM OF ACCOUNTS****14:9-5.1 Adoption by reference of rules concerning preservation of records; water utilities**

(a) On September 14, 1972, the Board of Public Utilities, pursuant to authority of N.J.S.A. 48:2-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act of 1968, adopted by reference the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" originally proposed to various states for adoption by the National Association of Regulatory Utility Commissioners as promulgated and published in April, 1972, for use by the electric, gas and water utilities.

(b) The Board of Public Utilities adopts these rules as its modified regulations governing the preservation and destruction of records for all classes of electric, gas and water utilities subject to its jurisdiction and as a supplement to its uniform system of accounts for all classes of electric, gas and water utilities.

(c) Copies of the full text of these rules are available for examination in the Board's offices at Two Gateway Center, Newark, New Jersey 07102, and are included in the Case Files in these dockets. Additional copies may be purchased from the National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044.

R.1972 d.181, effective September 18, 1972.

See: 4 N.J.R. 241(b).

SUBCHAPTER 6. SMALL WATER COMPANY TAKEOVER ACT REGULATIONS**14:9-6.1 Purpose**

This subchapter implements the provisions of N.J.S.A. 58:11-59 et seq., commonly known as the "Small Water Company Takeover Act". This subchapter establishes procedures by which a small water company that does not comply with appropriate statutory and regulatory standards concerning actual or imminent public health problems may be acquired or "taken over" by the most suitable public or private entity pursuant to a joint order issued by the New Jersey Department of Environmental Protection and the New Jersey Board of Public Utilities.

14:9-6.2 Definitions

Unless the context clearly indicates otherwise, the following terms, when used in this subchapter, shall have the following meanings:

“Act” means the “Small Water Company Takeover Act”, N.J.S.A. 58:11-59 et seq.

“Actual or imminent public health problems” means any violations by a small water company of appropriate statutory and regulatory standards, including but not limited to the New Jersey Safe Drinking Water Regulations, N.J.A.C. 7:10-1 through 13, which adversely affects the quality, pressure or volume of water delivered as determined by the Department. Violations by a small water company of appropriate statutory and regulatory standards that do not adversely affect the quality, pressure or volume of water delivered as determined by the Department shall not be considered actual or imminent public health problems for the purposes of this subchapter, including but not limited to, aesthetic water quality problems or minor design deficiencies.

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

“Capable” means financially and operationally able to provide safe, adequate and proper water service for the customers of the small water company to be acquired currently or in the foreseeable future. BPU shall be consulted by the Department concerning any public or private water systems’ financial status.

“Commissioner” means the Commissioner of Environmental Protection or his designated representative.

“Department” means the Department of Environmental Protection.

“Division” means the Division of Water Resources of the Department of Environmental Protection.

“Proximate” means and includes all public or private water companies, municipal utilities authorities established pursuant to N.J.S.A. 40:14B-1 et seq., municipalities or any other suitable governmental entities wherein the small water company provides service regardless of their ability to reasonably physically interconnect with the small water company to be acquired.

“Public Advocate” means the Department of the Public Advocate.

“Small water company” means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections.

14:9-6.3 Construction

(a) This subchapter shall be liberally construed to permit the Department and BPU to discharge their statutory functions.

(b) The Department and BPU may jointly amend, repeal or rescind this subchapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any regulations promulgated pursuant thereto.

14:9-6.4 Applicability

This subchapter shall apply to all small water companies within the State of New Jersey.

14:9-6.5 Severability

If any section, subsection, provision, clause or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subchapter shall not be affected thereby.

14:9-6.6 Scope

(a) Any small water company not in compliance with appropriate statutory and regulatory standards, including but not limited to the New Jersey Safe Drinking Water Regulations, N.J.A.C. 7:10-1 through 13, concerning actual or imminent public health problems as determined by the Department may be subject to the provisions of this subchapter.

(b) Violations by a small water company of appropriate statutory and regulatory standards not adversely affecting the quality, pressure or volume of water delivered as determined by the Department shall not be considered actual or imminent public health problems for the purposes of this subchapter.

14:9-6.7 Departmental action

(a) Prior to the implementation of procedures under the Act, the Department shall actively pursue appropriate and available enforcement options to bring a small water company into compliance with the appropriate statutory and regulatory standards concerning actual or imminent public health problems including but not limited to:

1. Issuance of directive letters;
2. Issuance of administrative orders;
3. Direct negotiation;
4. Appropriate legal proceedings; or
5. All other enforcement options deemed reasonable and appropriate by the Department consistent with its statutory mandate.

(b) A Departmental order issued on a case-by-case basis to a small water company concerning the availability of water, the potability of water and the provision of water at adequate volume and pressure may initiate the proceedings under the Act and this subchapter.

1. A Departmental order shall specify on a case-by-case basis a reasonable time period in which the small water company must comply with the appropriate statuto-

ry and regulatory standards concerning actual or imminent public health problems as determined by the Department and shall provide the public health problems as determined by the Department and shall provide the small water company with the opportunity for an evidentiary hearing pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F et seq. to determine whether there has been compliance with appropriate statutory and regulatory standards.

(d) The BPU shall extend or transfer the franchise area of the acquiring public or private entity to the extent necessary to cover the service area of the non-complying small water company taken over pursuant to the Act and this subchapter.

(e) If this joint order results in an increase in the rates, this process shall be considered a proceeding initiated by the application of a utility for an increase in rates for the purposes of N.J.S.A. 52:27E-19.

(f) Any acquisition costs which are deemed necessary and reasonable, based on evidence from the contested case hearing(s), and agreed to by the small water company and the acquiring entity and approved by BPU, after consultation with the Department and the Public Advocate, may be included in the rates.

14:9-6.11 Acquisition costs

(a) If the parties have not agreed to acquisition costs, BPU's and the Department's designated representatives shall convene at least one meeting within 60 days of the issuance of the joint hearing report pursuant to N.J.A.C. 7:19-5.9(i) and again within 15 days after issuance of the joint order prepared pursuant to N.J.A.C. 7:19-5.10. Representatives of the Public Advocate, non-complying small water company and acquiring entity shall be notified of each meeting which will concern the possibility of mutual agreement on compensation for the acquisition and the other details pertaining to takeover of the non-complying small water company by the acquiring entity.

1. Meetings shall be continued if the Department and BPU determine in writing that a reasonable possibility of success for an agreement exists.

2. BPU and Departmental representatives shall certify in writing to the Department and BPU the status of these meetings every three months.

(b) If no agreement between parties exist, compensation for the acquisition of the non-complying small water company shall be determined through the use of the eminent domain procedures pursuant to the "Eminent Domain Act of 1971", N.J.S.A. 20:3-1.

14:9-6.12 Compliance with joint order

(a) The acquiring entity which receives a joint order pursuant to N.J.A.C. 7:19-5.10 shall acquire the non-complying small water company and make necessary improvements to assure the availability of water, the potability of water and the provision of water at adequate volume and pressure as mandated by N.J.S.A. 58:11-62.

(b) The non-complying small water company shall immediately comply with the joint order and facilitate its sale to the acquiring entity as mandated by N.J.S.A. 58:11-62.

(c) The failure of any utility to comply with a joint order pursuant to N.J.A.C. 7:19-5.10 shall permit the BPU and the Department to proceed to enforce the joint order consistent with their statutory mandate.

14:9-6.13 Differential rate for customers of small water company for use of service of acquiring entity's system or facilities

If the joint order pursuant to N.J.A.C. 7:19-5.10 has been issued BPU may, in its discretion, allow the acquiring entity to charge and collect a differential rate from the customers of the non-complying small water company for the use of service of the acquiring entity's water supply system or facilities pursuant to N.J.S.A. 58:11-63.

SUBCHAPTER 7. PURCHASED WATER ADJUSTMENT CLAUSE

14:9-7.1 Scope

(a) The rules contained in this subchapter shall apply to the increase or decrease in purchased water charges incurred by a water utility, as defined in N.J.S.A. 48:2-13.

(b) All requirements set forth in this subchapter shall be satisfied before any utility may receive an increase in rates. The Board shall not, under law, authorize any change in rates for utilities subject to its jurisdiction without an Order in writing. Any utility not wishing to accept the conditions set forth in this subchapter may file for regular rate relief pursuant to N.J.S.A. 48:2-21 and 48:2-21.1.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 27 N.J.R. 2405(b).

Added (b).

14:9-7.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the content clearly indicates otherwise.

"Base consumption" means the level of consumption as established in the most recent base rate or adjustment clause case of a water utility.

"Base cost of purchased water" means the cost of contractually purchased water as established in the most recent base rate case or adjustment clause case of a water utility. Actual cost shall be reflected as cost per 1,000 gallons *or cost per 1,000,000 gallons unless otherwise specifically approved by the Board.

"Deferred accounting treatment" means the deferring on the books and records of a water utility the difference between the expense imposed upon it by a water purveyor for purchased water, and the amount of expense currently

approved by the Board for inclusion in rates for recovery of this expense.

“New cost of purchased water” means the Board recognized new increment to the base cost of water from a purveyor to a water utility.

“Public entity” means any governmental entity, including a utilities authority, empowered by law to establish rates or charges for the sale of water.

“Purchased water adjustment clause” or “PWAC” means the methodology by which a water utility obtains recognition in its rates of an increase or decrease in the cost of water purchased by it from a water purveyor.

“PWAC rate case expenses” means outside consulting, accounting and legal fees, cost of publishing the public notice, cost of room rental for the public hearing, cost of court reporter and transcripts if necessary, cost of programming customer invoices and other traditional rate case expenses.

“Revenue tax factor” means the tax factor applied to recoup the Gross Receipts and Franchise Taxes at the rate established in a water utility’s last base rate or adjustment clause case.

“Truing up schedule” means a detailed analysis reconciling the actual recovery of costs under the PWAC currently in effect with the Board allowed recovery of such costs.

“Water purveyor” means any governmental entity, including a utilities authority or commission, empowered by law to establish sales or charges for the sale of water; or a private entity, whose rates for the sale of water are regulated by the Board.

“Water utility using a flat rate basis” means any water utility whose rates and tariffs are not designed on a metered flow basis.

“Water utility” means any investor owned or municipal water utility subject to the regulation of the Board which purchases water from a water purveyor.

“Water utility using a metered basis” means any water utility whose rates and tariffs are designed on a metered flow basis.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Added “PWAC rate case expenses” and amended “base cost of purchased water”, “purchased water adjustment clause” and “truing up schedule”.

Case Notes

Purchased Water Adjustment Clause; water company entitled to base rate increase to recover costs associated with New Jersey Water Supply Authority contract. In Matter of Shorelands Water Company for Approval of Increase in Rates, 93 N.J.A.R.2d (BRC) 27.

14:9-7.3 Petitions for purchased water adjustment clauses; truing up schedules; time for filing

(a) A water utility with purchased water costs exceeding 10 percent of its total Operating and Maintenance expense may file a petition with the Board for approval of a purchased water adjustment clause to reflect in its rates an increase or decrease in the cost of water purchased by it. The petition shall be filed as soon as the water utility can reasonably compile the data required by this subchapter after notification of an increase or decrease in charges by its water purveyor, but in no event later than 45 days after such notification. The 45 day period may be extended for just cause based upon mitigating information submitted to the Board by the water utility.

(b) No initial purchased water adjustment clause shall be approved unless a water utility, within the prior three years, has had its base rates set by the Board in a decision and order which established base level data against which the new cost of purchased water can be measured. All succeeding adjustment clauses shall reflect the incremental or decremental cost of purchased water.

(c) Within 45 days after its purchased water adjustment clause has been in effect for one year, a water utility shall file schedules with the Board which true up its actual recovery of costs under the clause with the previous Board allowed recovery of such costs. Said true up schedule may be filed in conjunction with the petitioner’s next adjustment clause filing or base rate case. Interest on any over-recoveries shall be calculated through the calendar or clause year and shall be based upon the overall rate of return approved by the Board in the petitioner’s last base rate case.

(d) Refunds that are results of a true up may reduce the level of the subsequent purchased water adjustment clause. The Board may, at its discretion, require refunds to ratepayers via a bill credit and/or refund by check. All utilities that are encumbered with a refund liability shall certify to the staff of the Board the date the refund was accomplished and the total amount of the refund.

(e) A request for deferred accounting as it relates to purchased water shall only be effectuated within the context of an adjustment clause proceeding. The deferred accounting request must meet the original filing requirements of the clause as set out in N.J.A.C. 14:9-7.4. The amount to be deferred may be adjudicated within the context of a subsequent filing of an adjustment clause or base rate case.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Rewrote the section.

Case Notes

Purchased Water Adjustment Clause; water company entitled to base rate increase to recover costs associated with New Jersey Water Supply Authority contract. In Matter of Shorelands Water Company for Approval of Increase in Rates, 93 N.J.A.R.2d (BRC) 27.

14:9-7.4 Petitions for purchased water adjustment clauses; content; procedures

(a) A petition for approval of a purchased water adjustment clause, for an increase or decrease therein, and for the filing for approval of a truing up schedule shall include the following:

1. A copy of the contract for purchased water approved in the water utility's most recent base rate case or water adjustment clause case, whichever is later, and copies of the present and the proposed purchased water contracts, including price and detailed financial statements of associated expenses;

2. The actual number and classes of customers as approved in the water utility's most recent base rate case or purchased water adjustment clause case, whichever is later, and as of the end of the most recent calendar year;

3. The actual volume of water purchased as approved in the water utility's most recent base rate case or purchased water adjustment clause case, whichever is later, and as of the end of the most recent calendar year;

4. A calculation of a proposed cost per unit of volume using the methodology approved by the Board in the water utility's most recent base rate case or purchased water adjustment clause case, whichever is later;

5. A proposed tariff sheet, entitled "Purchased Water Adjustment Clause," to implement the proposed purchased water adjustment clause. Said tariff sheet shall set forth all rate schedules in the water utility's tariff which are affected by the clause;

6. A proposed tariff schedule, entitled "Purchased Water Adjustment Clause," to implement the proposed purchased water adjustment clause. Said schedule shall set forth all rate schedules in the water utility's tariff which are affected by the clause;

7. A schedule showing the truing up of the proposed cost of purchased water with the most recent level of base cost of purchased water and the most recent level of Board approved rates. This schedule shall contain an adjustment for any under/over recovery of revenues related to the cost of purchased water allowed in the adjustment clause. This schedule will show the actual recovery of cost under the PWAC currently in effect, with the Board allowed recovery of such costs including interest on any over-recoveries;

8. A detailed description of the efforts of the water utility to investigate and analyze the basis for any increase in rates proposed by its water purveyor as well as a detailed description of the water utility's findings. The utility shall also fully describe its efforts in actively participating in the process to assure that these rates are just and reasonable; and

9. A schedule of rate case expenses which includes consulting, legal and accounting fees, cost of publishing

the public notice, room rental for public hearing, court reporter and transcripts, and if necessary the cost of reprogramming customer invoices and other traditional rate case expenses. All rate case expenses shall be amortized and borne by both ratepayer and utility.

(b) Base consumption and base costs as set forth in the water utility's previous base rate case shall be established in each subsequent base rate filing.

(c) Interest on any over recovery shall be considered in each purchased water adjustment clause proceeding and reflected appropriately.

(d) The amount of a rate adjustment allowed by the Board in a purchased water adjustment clause proceeding shall be listed separately and identified on customer bills.

(e) A copy of the petition and all exhibits shall be served upon the Division of the Ratepayer Advocate simultaneously with the filing thereof with the Board.

(f) In reviewing the petition, the Board may consider such additional relevant information or financial analysis as it deems appropriate.

(g) Filings pursuant to these rules shall be considered contested cases and shall be heard in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Rewrote (a).

14:9-7.5 Formula for determination of base costs by a water utility using a flat rate basis

Purchased Water Adjustment Clause (PWAC)

± New Cost of Purchased Water
 ± Rate Case Expense
 ± Compression and/or Deferred Accounting
 × Revenue Tax Factor = Sum of Allowable Expenses
 ÷ Number of Customers By Class = Annual Charge ÷ Billing Cycle
 Per Customer = Base Cost.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Rewrote section.

Case Notes

Purchased Water Adjustment Clause; water company entitled to base rate increase to recover costs associated with New Jersey Water Supply Authority contract. In Matter of Shorelands Water Company for Approval of Increase in Rates, 93 N.J.A.R.2d (BRC) 27.

14:9-7.6 Formula for determination of costs by a water utility using a metered basis

Purchased Water Adjustment Clause

± New Cost of Purchased Water
 ± Rate Case Expense
 ± Compression and or Deferred Accounting
 × Revenue Tax Factor = Sum of Allowable Expenses
 ÷ Base Consumption (Pumpage less unaccounted for water)
 ÷ Base Consumption (Per tariff units Billing Cycle) =
 Purchased Adjustment Clause Cost per Unit over Billing Cycle.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Rewrote section.

Case Notes

Waste disposal rates; reasonableness of additional disposal and transportation costs; refunds for put-or-pay penalty charges; no refunds for failure to invoke Force Majeure clause; interim rate determined. In Matter of Petition of Bridgewater Resources, Inc., 92 N.J.A.R.2d (BRC) 27.

SUBCHAPTER 8. PURCHASED SEWERAGE TREATMENT ADJUSTMENT CLAUSE

14:9-8.1 Scope

(a) The rules contained in this subchapter shall apply to the increase or decrease in sewerage treatment charges incurred by a sewer utility, as defined in N.J.S.A. 48:2-13.

(b) All requirements set forth in this subchapter shall be satisfied before any utility may receive an increase in rates. The Board shall not, under law, authorize any change in rates for utilities subject to its jurisdiction without an Order in writing. Any utility not wishing to accept the conditions set forth in this subchapter may file for regular rate relief pursuant to N.J.S.A. 48:2-21 and 48:2-21.1.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Added (b).

14:9-8.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the content clearly indicates otherwise.

“Base sewerage treatment” means the level of sewerage treatment as established in the most recent base rate or adjustment clause case of a sewer utility.

“Base cost of purchased sewerage treatment” means the cost of contractually purchased sewerage treatment as established in the most recent base rate or adjustment clause case of a sewer utility. Actual cost shall be reflected as cost per 1,000 gallons or per 1,000,000 gallons unless otherwise specifically approved by the Board.

“Deferred accounting treatment” means the deferring on the books and records of a sewer utility the difference between the expense imposed upon it by a sewerage treatment purveyor for purchased sewerage treatment, and the amount of expense currently approved by the Board for inclusion in rates for recovery of this expense.

“New cost of purchased sewerage treatment” means the Board recognized new increment to the base cost of purchased sewerage treatment from a purveyor to a sewer utility.

“Public entity” means any governmental entity, including a utilities authority, empowered by law to establish rates or charges for the sale of sewerage treatment.

“Purchased sewerage treatment adjustment clause” or “PSTAC” means the methodology by which a sewer utility obtains recognition in its rates of an increase or decrease in the cost of sewerage treatment purchased by it from a sewerage treatment purveyor.

“PSTAC rate case expenses” means outside consulting, accounting and legal fees, cost of publishing the public notice, cost of room rental for the public hearing, cost of court reporter and transcripts if necessary, cost of programming customer invoices and other traditional rate case expenses.

“Revenue tax factor” means the tax factor applied to recoup the Gross Receipts and Franchise Taxes at the rate established in a sewer utility’s last base rate or adjustment clause case.

“Sewerage treatment purveyor” means any governmental entity, including a utilities authority or commission, empowered by law to establish sales or charges for the treatment of sewerage; or a private entity, whose rates for the sale of sewerage treatment are regulated by the Board.

“Sewerage treatment utility using a flat rate basis” means any sewer utility whose rates and tariffs are not designed on a metered flow basis.

“Sewer utility” means any investor owned sewer utility subject to the regulation of the Board which purchases sewerage treatment from a sewerage treatment purveyor.

“Sewer utility using a metered basis” means any sewer utility whose rates and tariffs are designed on a metered flow basis.

“Truing up schedule” means a detailed analysis reconciling the actual recovery of costs under the PSTAC currently in effect with the Board allowed recovery of such costs.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Added “PSTAC rate case expenses” and amended “base cost of purchased sewerage treatment”, “purchased sewerage treatment adjustment clause” and “truing up schedule”.

14:9-8.3 Petitions for purchased sewerage treatment adjustment clauses; truing up schedules; time for filing

(a) A sewer utility with purchased sewerage treatment costs exceeding 10 percent of its total Operating and Maintenance expense may file a petition with the Board for approval of a purchased sewerage treatment adjustment clause to reflect in its rates an increase or decrease in the cost of sewerage treatment purchased by it. The petition shall be filed as soon as the sewer utility can reasonably compile the data required by this subchapter after notification of an increase or decrease in charges by its sewerage treatment purveyor, but in no event later than 45 days after such notification. The 45 day period may be extended for just cause based upon mitigating information submitted to the Board by the sewer utility.

(b) No initial purchased sewerage treatment adjustment clause shall be approved unless a sewer utility, within the prior three years, has had its base rates set by the Board in a decision and order which established base level data against which the new cost of purchased water can be measured. All succeeding adjustment clauses will reflect the incremental or decremental cost of purchased sewerage treatment.

(c) Within 45 days after its purchased sewerage treatment adjustment clause has been in effect for one year, a sewer utility shall file schedules with the Board which true up its actual recovery of costs under the clause with the previous Board allowed recovery of such costs. Said true up schedule may be filed in conjunction with the petitioner's next adjustment clause filing or base rate case. Interest on any over-recoveries shall be calculated through the calendar or clause year and shall be based upon the overall rate of return approved by the Board in the petitioner's last base rate case.

(d) Refunds that are results of a true up, may reduce the level of the subsequent purchased sewerage treatment adjustment clause. The Board may, require refunds to rate-payers via a bill credit and/or refund by check whichever is the most appropriate refund under the specific circumstances. All utilities that are encumbered with a refund liability shall certify to the staff of the Board the date the refund was accomplished and the total amount of the refund.

(e) A request for deferred accounting as it relates to purchased sewerage treatment shall only be effectuated within the context of an adjustment clause proceeding. The deferred accounting request must meet the original filing requirements of the clause as set out in N.J.A.C. 14:9-8.4. The amount to be deferred may be adjudicated within the context of a subsequent filing of an adjustment clause or base rate case.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Rewrote section.

14:9-8.4 Petitions for purchased sewerage treatment adjustment clauses; content; procedures

(a) A petition for approval of a purchased sewerage treatment adjustment clause, for an increase or decrease herein, and for the filing for approval of a truing up schedule shall include the following:

1. A copy of the contract for purchased sewerage treatment approved in the sewer utility's most recent base rate case or purchased sewerage treatment adjustment clause case, whichever is later, and copies of the present and the proposed purchased sewerage treatment contracts, including price and detailed financial statements of associated expenses;

2. The actual number and classes of customers as approved in the sewer utility's most recent base rate case

or purchased sewerage treatment adjustment clause case, whichever is later, and as of the end of the most recent calendar year;

3. The actual volume of sewerage treatment purchased as approved in the sewer utility's most recent base rate case or purchased sewerage treatment adjustment clause case, whichever is later, and as of the end of the most recent calendar year;

4. A calculation of a proposed cost per unit of volume using the methodology approved by the Board in the sewer utility's most recent base rate case or purchased sewerage treatment adjustment clause case, whichever is later;

5. A proposed tariff sheet, entitled "Purchased Sewerage Treatment Adjustment Clause," to implement the proposed purchased sewerage treatment adjustment clause. Said tariff sheet shall set forth all rate schedules in the sewer utility's tariff which are affected by the clause;

6. A proposed tariff schedule, entitled "Purchased Sewerage Treatment Adjustment Clause," to implement the proposed purchased sewerage treatment adjustment clause. Said schedule shall set forth all rate schedules in the sewer utility's tariff which are affected by the clause;

7. A schedule showing the truing up of the proposed cost of purchased sewerage treatment with the most recent level of base cost of purchased sewerage treatment and the most recent level of Board approved rates. This schedule shall contain an adjustment for any under/over recovery of revenues related to the cost of purchased sewerage treatment allowed in the adjustment clause. This schedule shall show the actual recovery of cost under the PSTAC currently in effect, with the Board allowed recovery of such costs including interest on any over recoveries;

8. A detailed description of the efforts of the sewer utility to investigate and analyze the basis for any increase in rates proposed by its sewerage treatment purveyor as well as a detailed description of the sewer utility's findings. The utility shall also fully describe its efforts in actively participating in the process to assure that these rates are just and reasonable; and

9. A schedule of rate case expenses which includes consulting, legal and accounting fees, cost of publishing the public notice, room rental for public hearing, court reporter and transcripts, and if necessary the cost of reprogramming customer invoices and other traditional rate case expenses. All rate case expenses shall be amortized and borne by both ratepayer and utility.

(b) Base levels of sewerage treatment and base costs as set forth in the sewer utility's previous base rate case shall be established in each subsequent base rate filing.

(c) Interest on any over recovery shall be considered in each purchased sewerage treatment adjustment clause proceeding and reflected appropriately.

(d) The amount of a rate adjustment allowed by the Board in a purchased sewerage treatment adjustment clause proceeding shall be listed separately and identified on customer bills.

(e) A copy of the petition and all exhibits shall be served upon the Division of the Ratepayer Advocate simultaneously with the filing thereof with the Board.

(f) In reviewing the petition, the Board may consider such additional relevant information or financial analysis as it deems appropriate.

(g) Filings pursuant to these rules shall be considered contested cases and shall be heard in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Rewrote (a).

14:9-8.5 Formula for determination of base costs by a sewer utility using a flat rate basis

Purchased Sewerage Treatment Adjustment Clause (PSTAC)

± New Cost of Purchased Sewerage Treatment
± Rate Case Expense
± Compression and/or Deferred Accounting
× Revenue Tax Factor = Sum of Allowable Expenses
÷ Number of Customers By Class = Annual Charge ÷ Billing Cycle
Per Customer = PSTAC.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Rewrote section.

14:9-8.6 Formula for determination of costs by a sewer utility using a metered basis

Purchased Sewerage Treatment Adjustment Clause

± New Cost of Purchased Sewerage Treatment
± Rate Case Expense
± Compression and/or Deferred Accounting
× Revenue Tax Factor = Sum of Allowable Expenses
÷ Base Sewerage Treatment Costs
÷ Base Sewerage Treatment (Per tariff units) ÷ Billing Cycle =
Adjustment Clause cost per unit over Billing Cycle.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).
Rewrote section.