

CHAPTER 3

ALL UTILITIES

Authority

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

Source and Effective Date

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

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, All Utilities, expires on August 2, 2002. See: 34 N.J.R. 992(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.1984 d.651. See: 15 N.J.R. 1235(a), 16 N.J.R. 250(a). Further amendments became effective April 2, 1984 as R.1984 d.87. See: 15 N.J.R. 1355(a), 16 N.J.R. 744(a). Subchapter 3, Service, and Subchapter 7, Bills and Payments for Service, were readopted effective July 2, 1984 as R.1984 d.259. See: 16 N.J.R. 693(a), 16 N.J.R. 1807(a).

1985 Revisions: Amendments became effective April 15, 1985 as R.1985 d.166. See: 16 N.J.R. 2747(a), 17 N.J.R. 974(a). Further amendments became effective May 6, 1985 as R.1985 d.202. See: 17 N.J.R. 174(a), 17 N.J.R. 1136(a).

1986 Revisions: Amendments became effective July 7, 1986 as R.1986 d.242. See: 18 N.J.R. 463(a), 18 N.J.R. 1401(a).

1987 Revisions: Amendments became effective April 6, 1987 as R.1987 d.163. See: 18 N.J.R. 2425(a), 19 N.J.R. 552(a). N.J.A.C. 14:3-7.12A became effective December 21, 1987 as R.1987 d.516. See: 18 N.J.R. 2315(a), 19 N.J.R. 2405(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, All Utilities, expired on May 6, 1990. Chapter 3, All Utilities, was subsequently adopted as new rules by R.1991 d.221, effective May 6, 1991. See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

1993 Revisions: Subchapter 11, Solid Waste Collection Regulatory Reform, was adopted as R.1993 d.83, effective February 16, 1993. See: 24 N.J.R. 1459(a), 25 N.J.R. 692(a).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Solid Waste Collection and Solid Waste Disposal, and Subchapter 11, Solid Waste Collection Regulatory Reform, were readopted by R.1996 d.253, effective May 6, 1996. As part of R.1996 d.253, Subchapters 10 and 11 were recodified to N.J.A.C. 7:26H-1 and 7:26H-5, respectively, effective June 3, 1996. See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a). The remainder of Chapter 3, All Utilities, consisting of Subchapter 1, Definitions; Subchapter 2, Plant; Subchapter 3, Service; Subchapter 4, Meters; Subchapter 5, Offices; Subchapter 6, Records; Subchapter 7, Bills and Payments for Service; Subchapter 8, Suggested Formulae for Extension of Utility Service; and Subchapter 9, General Provisions, expired on May 6, 1996.

Chapter 3, All Utilities, consisting of Subchapters 1 through 9 and 12, was adopted as new rules by R.1997 d.39, effective February 3, 1997. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

14:3-1.1 Words defined

SUBCHAPTER 2. PLANT

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

SUBCHAPTER 3. SERVICE

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

SUBCHAPTER 4. METERS

- 14:3-4.1 Ownership
- 14:3-4.2 Location
- 14:3-4.3 Access
- 14:3-4.4 Equipment for testing
- 14:3-4.5 Tests by utility on request
- 14:3-4.6 Tests by Board on request
- 14:3-4.7 Adjustment of charges
- 14:3-4.8 Meter test reports
- 14:3-4.9 Meter records
- 14:3-4.10 Meter replacement

SUBCHAPTER 5. OFFICES

14:3-5.1 Location

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

- 14:3-13.4 Interest calculation
- 14:3-13.5 Tariff language requirement

SUBCHAPTER 6. RECORDS

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

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

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

SUBCHAPTER 8. SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE

- 14:3-8.1 General provisions
- 14:3-8.2 Residential land developer; extension other than telephone
- 14:3-8.3 Individual residential customer; extension other than telephone

SUBCHAPTER 9. GENERAL PROVISIONS

- 14:3-9.1 Rules not retroactive
- 14:3-9.2 Deviation and modification
- 14:3-9.3 Tariffs
- 14:3-9.4 Authority
- 14:3-9.5 Prior rules
- 14:3-9.6 Rates; difference from filed tariffs

SUBCHAPTERS 10 THROUGH 11. (RESERVED)

SUBCHAPTER 12. UTILITY MANAGEMENT AUDITS

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

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

- 14:3-13.1 Scope
- 14:3-13.2 Definitions
- 14:3-13.3 Interest rate

SUBCHAPTER 1. DEFINITIONS

14:3-1.1 Words defined

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

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

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

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

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

Amended by R.1991 d.221, effective May 6, 1991.
See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

Internal reference cite corrected, “Board” definition updated.
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).
Added “Residential customer”.

Case Notes

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

SUBCHAPTER 2. PLANT

14:3-2.1 Plant construction

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

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

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

In (a), inserted "utility" following "accordance with standard".

Case Notes

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

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 non-standard 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 non-standard 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., all utilities owning or operating underground facilities shall enroll for membership in the One-Call Damage Prevention System. In addition, all utilities which 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 which 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).

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 same 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 customers of the rate schedule most applicable to said 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).

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 pre-

serve 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. 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 is 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.

(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 arrears 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.

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 24 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, or if the Board so directs when a complaint involving such matter 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.

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).

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 Chapters 5 (Electric), 6 (Gas), and 9 (Sewer and Water) of this Title, 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.

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, consumption 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. Owing 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).

SUBCHAPTER 5. OFFICES

14:3-5.1 Location

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

(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.

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".

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.

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).

SUBCHAPTER 6. RECORDS

14:3-6.1 Location and examination

Each utility 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.

14:3-6.2 Plant and operating

(a) Each utility 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 utility 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.

14:3-6.3 Periodic reports

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.

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.

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 \$2,000.

(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 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. 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 at the time of the accident there were no indications that it was or would be 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).

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 Public records

(a) All records, except those records set forth in (b) below or which by rule are accorded confidential treatment by the Board and are the subject of a protective order of the Board, which specifically are required by law to be made, maintained or kept by and for the Board of Public Utilities shall be public records within the meaning of N.J.S.A. 47:1A-1 et seq. Records which by rule are accorded confidential treatment by the Board or which are the subject of a protective order of the Board shall be disclosed only to the extent and in the manner provided therein, and shall not be deemed public records within the meaning of N.J.S.A. 47:1A-1 et seq.

(b) All records which specifically are required by law to be made, maintained or kept by and for the Board which relate to accidents or investigation of accidents, except for information pertaining to on-going investigations, concerning public utilities and to surveys of property and equipment of public utilities shall be deemed public records, copies of which may be purchased or reproduced under the provisions of N.J.S.A. 47:1A-1 et seq., unless it is determined by the Board that the inspection, copying or publication of such records shall be inimical to the public interest.

(c) All other records of the Board shall not be subject to the provisions of N.J.S.A. 47:1A-1 et seq., and shall be available for inspection and examination only to the extent and for such purposes as may be expressly authorized by the Board.

(d) The fee for copies of records, instruments and documents of the Board shall be in accordance with the provisions of N.J.S.A. 47:1A-2 and 48:2-56.

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.

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. *Irral 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) Each electric, gas, local exchange carrier telephone and Class A water 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;

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;

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

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

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).

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., Bkrcty.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 guarantee to secure payment for service.

14:3-7.7 Information for customers

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.

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 this 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 and sewerage company 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 included on the bill: "Approximately 13% of \$____ of your current period charges reflect the average gross receipts and franchise taxes which are paid to the State of New Jersey and distributed to New Jersey municipalities."
10. For each electric or gas company subject to the Board's jurisdiction, sufficient information to adequately reflect that the payment of taxes is on a per unit basis 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 N.J.S.A. 54:30A-54.6. The following language is suggested as a model statement to be included on the bill: "The State Gross Receipts and Franchise Unit Tax imposed upon your bill is calculated on a per unit basis and, therefore, is imposed upon each unit of energy which you have used. To obtain the exact amount of tax included in your billing or the tax rate imposed upon each unit of energy in your bill, 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).

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.

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

Case Notes

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 Requirements for budget billing and payment plans of gas and electric utilities for residential accounts

(a) Each gas and electric utility 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.

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. 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, immediate payment of accounts may be required.

1. Electric, gas, water, sewer 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, sewer 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.

(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 the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities and the address and telephone number of the Board. The telephone numbers of the Board to be indicated on such statement are (201) 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 1/8 inch in height (12 points). No other matter shall be printed upon the back of the notice.

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

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

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

2. In the event that fire protection service is ultimately discontinued, the servicing water utility shall immediately

notify, via certified mail, the parties listed in (f)1 above and the:

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

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

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

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

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

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

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

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

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

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

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

Added toll-free number at (c)1.

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

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

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.

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 Federal Aid to Families with Dependent Children (AFDC);

4. Recipients of Federal Supplemental Security Income (SSI);

5. Recipients of Pharmaceutical Assistance to The Aged and Disabled (PAAD);

6. Recipients of general welfare assistance benefits; or

7. 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.

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. 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 payment 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 and/or gas 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, 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, or water 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).

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 sewer 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, 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 whom the last preceding bill was rendered. 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 and, in the case of tenants of single and two-family dwellings, 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.

(b) 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.

(c) 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.

(d) 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).

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 non-payment 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 be discontinued for nonpayment.

14:3-7.16 Diversion of service

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

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

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

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

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

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

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

(b) Each electric and/or gas utility shall file tariff amendments to provide that tenant-customers shall not be required

to pay for service supplied outside their premises without the tenant-customers’ consent.

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

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

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

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

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

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

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

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

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

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

(e) Utility service shall be continued as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. The date of the beginning of the diversion;
- ii. The date of the beginning of the tenancy; or
- iii. The date four years prior to the date of the tenant-customer's diversion complaint.

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

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

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

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

Cross References

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

Case Notes

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

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 nonpayment, except that no additional notice shall be required when, in response to a notice of discontinuance, a check submitted in payment is subsequently dishonored. The notice shall indicate that payments on the bill shall be applied as set forth in (f) below.

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

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

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

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

- i. The amount of the credit limit option;
- ii. That nonbasic services may be disconnected without further notice should the customer exceed the selected credit limit;

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

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

(e) Payment arrangements shall be made as follows:

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

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER 8. SUGGESTED FORMULAE FOR EXTENSION OF UTILITY SERVICE

14:3-8.1 General provisions

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

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

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

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

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

(c) added.

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

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

Case Notes

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

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

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

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

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

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

EXAMPLE

Cost of Extension to Utility and Net Deposit Collected from Land Developer	\$1,500.00
Estimated Annual Revenue, First House Completed and Occupied	\$ 100.00
Factor	
Deposit Returned to Land Developer	\$ 500.00
Deposit Remaining with Utility	\$1,000.00
Estimated Annual Revenue, Second House Completed and Occupied	\$100.00
Factor	5
Deposit Returned to Land Developer	\$ 500.00
Deposit Remaining with Utility	\$ 500.00
Actual Revenues in a Subsequent Year from Above Houses	\$250.00
Estimated Annual Revenue from Above Houses	\$200.00
Excess Annual Revenues	\$ 50.00
Factor	5
Deposit Returned to Land Developer	\$ 250.00
Deposit Remaining with Utility	\$ 250.00

EXAMPLE

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

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

Case Notes

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

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

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

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

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

(a) Where the estimated cost to the utility for an extension to individual permanent residential customers does not exceed five times the estimated annual revenue, the utility shall make the necessary extension upon receiving from the customer an application for service. Such application shall be made by the owner of the property or by a responsible tenant.

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

EXAMPLE

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

(c) Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with subsection (a) of this Section, the utility and the customer may agree upon a monthly revenue guarantee not to exceed 1/10 of the total cost of the extension, in lieu of a deposit pursuant to subsection (b) of this Section.

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

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

Case Notes

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

SUBCHAPTER 9. GENERAL PROVISIONS

14:3-9.1 Rules not retroactive

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

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

14:3-9.2 Deviation and modification

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

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

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

14:3-9.3 Tariffs

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

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

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

14:3-9.4 Authority

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

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

14:3-9.5 Prior rules

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

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

14:3-9.6 Rates; difference from filed tariffs

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

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

1. Type of agreement; for example, firm or interruptible service;
2. Detailed costs to the utility associated with delivery and sale of the service;
3. Rates and other charges to the customer;
4. Effect on the company's income of such sale;
5. Reasons for the contract or agreement.

R.1973 d.157, effective June 19, 1973.
See: 5 N.J.R. 123(b), 5 N.J.R. 240(a).
Amended by R.1997 d.39, effective February 3, 1997.
See: 28 N.J.R. 1810(a), 29 N.J.R. 449(a).

Historical Note

Formerly Administrative Order 14:283.

Case Notes

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

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

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

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

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

SUBCHAPTER 10 THROUGH 11. (RESERVED)

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

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

14:3-12.2 Initiation of audit

Where the Board determines that an audit of a utility is necessary or desirable, it shall order the audit to be performed and shall establish the objective, scope, and other factors it deems pertinent to said audit.

14:3-12.3 Performance of audit

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

1. The Board's staff shall establish and maintain a list of qualified consulting firms from which participants shall be selected to be invited to submit proposals to perform the audit, except that any consulting firm may request, in writing, to become a participant and shall be awarded the full privileges thereof;

2. The Board's staff shall prepare a request for proposals to be mailed to all participants setting forth all pertinent criteria to be used by the Board's staff in its evaluation of submitted proposals;

3. The Board's staff shall invite all participants to attend a conference, prior to the submission of proposals, for the purpose of reviewing the request for proposals with the Board's staff and representatives of the utility;

4. The Board's staff shall prepare, with the assistance of the utility, an evaluation of all submitted proposals for review by the Board, from which a consulting firm shall be selected to perform the audit; and

5. The Board's staff shall prepare a written agreement, setting forth all terms and conditions of the audit, to be signed by authorized representatives of the utility and the selected consulting firm.

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

14:3-12.4 Results of audit

Upon completion and review of an audit, the Board's staff shall permit the utility to review its findings of said audit and to provide written comments which shall be incorporated into the results filed with the Board.

14:3-12.5 Implementation of results

(a) The utility may adopt, or the Board may order, the implementation of new or altered practices and procedures, as determined by the results of the audit.

(b) The Board's staff shall formulate, with the assistance of the utility, detailed plans to implement new or altered practices and procedures.

(c) The Board's staff shall monitor, evaluate and modify, as necessary, the implementation of new or altered practices and procedures to ensure the promotion of efficient and adequate service to meet the public convenience and necessity.

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

N.J.S.A. 48:2-13.

Source and Effective Date

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

14:3-13.1 Scope

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

14:3-13.2 Definitions

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

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

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

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

“Base cost of purchased sewerage treatment” means the cost of contractually purchased sewerage treatment as established in the most recent base rate or adjustment clause case of a sewer utility and collected via the base rates of that sewer utility. Actual cost shall be reflected as cost per 1,000 gallons or cost per 1,000,000 gallons unless otherwise specifically approved by the Board. (See N.J.A.C. 14:9-8.2.)

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

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

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

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

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

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

“Purchased Water Adjustment Clause” or “PWAC” means the methodology by which a water utility obtains recognition in its rates of an increase or decrease in the cost of water purchased by it from a water purveyor (see N.J.A.C. 14:9-7.2); or its successor clause.

Case Notes

A constant levelized energy adjustment clause (LEAC) charge, which is included in an electric utility’s overall rate tariff based on estimated prospective 12-month energy costs, is subject to periodic adjustment to reflect actual costs. *Petition of Atlantic City Elec. Co.*, 310 N.J.Super. 357, 708 A.2d 775 (A.D. 1998).

14:3-13.3 Interest rate

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

14:3-13.4 Interest calculation

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

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

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

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

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

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

14:3-13.5 Tariff language requirement

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