

CHAPTER 3**ALL UTILITIES****Authority**

N.J.S.A. 48:2-13, 48:2-16, 16.1 through 16.4, 17, 20, 23, 24, 25 and 27, 48:3-2.3, 3, 4 and 7.8, and 48:19-17.

Source and Effective Date

R.2008 d.119, effective April 10, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Chapter Expiration Date

Chapter 3, All Utilities, expires on April 10, 2013.

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

Subchapter 13, Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Sewerage Treatment Adjustment Clauses, was adopted as R.1997 d.351, effective September 2, 1997. See: 28 N.J.R. 4079(a), 29 N.J.R. 3845(a).

Chapter 3, All Utilities, was readopted as R.2002 d.280, effective July 31, 2002. See: 34 N.J.R. 992(a), 34 N.J.R. 3216(b).

Subchapter 8, Suggested Formulae for Extension of Utility Service, was repealed and Subchapter 8, Extensions to Provide Regulated Services, was adopted as new rules, and Subchapter 10, Targeted Revitalization Incentive Program (TRIP), was adopted as new rules by R.2004 d.462, effective December 20, 2004 (operative March 20, 2005). See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

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

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

Chapter 3, All Utilities, was readopted as R.2008 d.119, effective April 10, 2008. As part of R.2008 d.119, Subchapter 1, Definitions, was renamed General Provisions; Subchapter 3A, Discontinuance and Restoration of Service, was added as new rules; Subchapter 5, Offices, was renamed Contacting the Utility; Subchapter 6, Records, was renamed Records and Reporting; Subchapter 9, General Provisions, was repealed; and Subchapter 13, Interest on Deferred Balances of Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses, Purchased Water Adjustment Clauses and Purchased Wastewater Treatment Adjustment Clauses, was renamed Interest on Over or Under Recovered Cost Balances Under Adjustment Clauses, effective May 19, 2008. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

14:3-1.1 Definitions

The following words and terms, when used in N.J.A.C. 14:3 through 14:10, and N.J.A.C. 14:29, shall have the following meanings unless the context clearly indicates otherwise:

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

“Class A water utility” means a public utility that meets the definition of “class A water utility” in the National Association of Regulatory Utility Commissioners’ (NARUC) 1985 “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities,” incorporated herein by reference, as amended or supplemented, available at www.naruc.org.

“Customer” means a person that is an end user, a customer of record, or both, as these terms are defined in this section.

“Customer of record” means the person that applies for utility service and is identified in the account records of a public utility as the person responsible for payment of the public utility bill. A customer may or may not be an end user, as defined herein.

“Days” means calendar days unless specified otherwise.

“Electric public utility” means a public utility, as defined in this section, that distributes electricity to end users.

“End user” means a person who receives, uses, or consumes electricity, gas, telephone, water or wastewater service. An end user may or may not be a customer of record, as defined in this section.

“Gas public utility” means a public utility, as defined in this section, that distributes gas to end users.

“Normal business hours” means 9:00 A.M. to 5:00 P.M. weekdays, except for New Jersey State holidays. A list of New Jersey State holidays can be obtained at <http://www.state.nj.us/nj/about/facts/holidays.html>.

“Person” means an individual, firm, joint venture, partnership, copartnership, corporation, association, State, county, municipality, public agency or authority, bi-state or interstate agency or authority, public utility, regulated entity, cable television company, cooperation association, or joint stock association, trust, limited liability company, governmental entity, or other legal entity, and includes any trustee, receiver, assignee, or personal representative thereof.

“Public utility” has the meaning ascribed to this term at N.J.S.A. 48:2-13.

“Regulated entity” means a person or entity that is subject to the jurisdiction of the Board, or that provides a product or service subject to the jurisdiction of the Board. This term includes a public utility, as defined in this section.

“Regulated service” means a service subject to regulation by the Board.

“Residential customer” means a customer who receives service from a regulated entity for use in a residence.

“Telephone utility” has the meaning assigned to this term in the Board’s telephone rules at N.J.A.C. 14:10-1.2.

“Wastewater utility” has the meaning assigned to this term in the Board’s water and wastewater rules at N.J.A.C. 14:9-1.2.

“Water utility” has the meaning assigned to this term in the Board’s water and wastewater rules at N.J.A.C. 14:9-1.2.

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

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

Internal reference cite corrected, “Board” definition updated.

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

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

Added “Residential customer”.

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

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

Added definition for “Days”.

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

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

Amended “Customer” and “Residential customer”; added “End user” and “Person”.

Amended by R.2004 d.462, effective December 20, 2004.

See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

Added “Regulated entity” and “Regulated service”.

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

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

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

Amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

In the introductory paragraph, inserted “and N.J.A.C. 14:29,” and “the context”, and substituted “indicates” for “indicated”; inserted definitions “Class A water utility”, “Customer of record”, “Electric public utility”, “Gas public utility”, “Normal business hours”, “Public utility”, “Telephone utility”, “Wastewater utility” and “Water utility”; rewrote definition “Customer”; in definition “End user”, inserted “of record” and substituted “of this section” for “herein”; and deleted definition “Utility”.

Amended by R.2009 d.15, effective January 5, 2009.

See: 40 N.J.R. 2414(a), 41 N.J.R. 270(a).

In definition “Normal business hours”, substituted “5:00” for “4:30” and inserted the last sentence.

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).

14:3-1.2 Applicability and scope

(a) This chapter applies to all public utilities.

(b) Each public utility shall ensure that all applicable requirements of this chapter are met, as to all of the utility’s plant, facilities and services.

(c) Other Board rules apply to each of the utilities listed at (a) above, in addition to this chapter. If there is any conflict between those utility-specific rules and this chapter, the rules that are specific to that particular utility shall govern.

(d) If a dispute arises between a utility and any other person regarding this chapter, an informal complaint may be submitted to the Board in accordance with N.J.A.C. 14:1-5.13, or a petition may be filed under N.J.A.C. 14:1-5.

New Rule, R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

14:3-1.3 Tariffs

(a) Each public utility shall, prior to offering a utility service to the public, submit a tariff or tariff amendments to the Board for approval, with an electronic copy to Rate Counsel. The tariff filing shall meet the applicable requirements for pleadings at N.J.A.C. 14:1-4, the applicable requirements for petitions at N.J.A.C. 14:1-5.1 through 5.5, and the applicable requirements for tariff filings at N.J.A.C. 14:1-5.11, 5.12, and/or 5.12A.

(b) The tariff required by this section shall:

1. Clearly identify the public utility, list all relevant contact information, and describe the public utility's service area;
2. Clearly describe all services that the utility offers, and all terms and conditions regarding the services;
3. Include all of the public utility's rates and charges for all services that the utility offers. The rates for each separate and distinct class of service rendered by a utility shall be filed as a separate schedule; and
4. Meet all requirements of this section.

(c) In addition to the requirements for all tariffs under (a) and (b) above, a telephone utility tariff shall also include all of the following:

1. Exchange rate schedules, which shall include:
 - i. Primary rate schedules;
 - ii. Private branch exchange rate schedules;
 - iii. Miscellaneous rate schedules; and
 - iv. Exchange area maps; and
2. Toll service rate schedules, which shall include:
 - i. Basic rate schedules;
 - ii. Supplementary rate schedules; and
 - iii. A list of toll points.

(d) Each utility shall operate in accordance with its tariff at all times, unless specifically authorized in writing by the Board to do otherwise.

(e) If a gas, electric, water or wastewater utility plans to enter into a contract or agreement with a particular customer or group of customers, for service at rates different from those authorized under the utility's Board-approved tariff, the utility shall file a petition for approval, which shall include four copies of the contract or agreement, at least 30 days prior to the effective date of the agreement or contract. If a tele-

phone utility enters into a contract or agreement with a particular customer or group of customers, for service at rates different from those provided for under the utility's Board-approved tariff, the telephone utility shall make all individual case contracts (ICCs) available for inspection by Board staff upon request.

(f) Each filing requesting Board approval under (e) above shall be accompanied by a detailed statement that includes:

1. The type of service to be provided under the contract or agreement; for example, firm or interruptible service;
2. A detailed list of the costs and expenses to the utility that will result from its performance under the contract or agreement;
3. Rates and other charges that the customer will pay;
4. The effect of the contract or agreement on the utility's revenues and income, in detail;
5. The utility's reasons for entering into the contract or agreement;
6. A complete and detailed list of every way in which the contract or agreement changes or affects the utility's Board-approved tariff;
7. The rate treatment of any change in costs, expenses and/or revenues, and the predicted impact of the change on other ratepayers of the utility; and
8. Any other potential impacts on other ratepayers, not described in (f)1 through 7 above.

(g) Where more than one rate schedule is available to a particular customer, a utility shall assist the customer in selecting the rate schedule most favorable for the customer. Each utility shall include this requirement among the terms and conditions of its tariff.

(h) Each utility shall make its Board-approved tariff available for public inspection in each utility office where applications for service may be made, and on its website, if the utility has a website.

(i) If there is any inconsistency between this chapter and a tariff, these rules shall govern, except if the tariff provides for more favorable treatment of customers than does this chapter, in which case the tariff shall govern.

New Rule, R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Amended by R.2009 d.15, effective January 5, 2009.

See: 40 N.J.R. 2414(a), 41 N.J.R. 270(a).

In (e), inserted "gas, electric, water or wastewater", "a petition for approval, which shall include", and the last sentence; in (f)5, deleted "and" from the end; in (f)6, substituted a semicolon for a period at the end; and added (f)7 and (f)8.

continuance or meter reading within 48 hours; in (c), inserted \$50 arrearage provision; added (c)1 through (c)5; and in (d)1, inserted provisions that extension request be in writing and that service not be discontinued pending Board decision.

Emergency amendment, R.2002 d.312, effective August 21, 2002 (to expire October 20, 2002).

See: 34 N.J.R. 3295(a).

Added (c)6.

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

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

In (c), rewrote the third sentence of the introductory paragraph.

Emergency amendment, R.2002 d.312, effective August 21, 2002 (expired October 20, 2002).

See: 34 N.J.R. 3295(a).

Deleted (c)6.

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

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

In (c), added 6.

Recodified in part from N.J.A.C. 14:3-3.6 and amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Rewrote (a); in the introductory paragraph of (c), substituted "discontinuance" for "termination", inserted "involuntarily", deleted the former third and fourth sentences and inserted "New Jersey State" twice; recodified former (c)1 through (d)2 to N.J.A.C. 14:3-3A.2; and added new (d) and (e).

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.

14:3-3A.2 Discontinuance for nonpayment

(a) Except for residential telephone service that is covered at N.J.A.C. 14:3-3A.8, and subject to the limits below in this section, a public utility may discontinue service for nonpayment only if one or both of the following criteria are met, and shall not discontinue service for nonpayment for any other reason:

1. The customer's arrearage is more than \$100.00; and/or

2. The customer's account is more than three months in arrears.

(b) A utility may discontinue service for nonpayment only of charges for the actual utility commodity itself, that is, for electricity, gas, water, wastewater service, or telephone service. A utility shall not discontinue service for nonpayment of charges for optional services, as defined at N.J.A.C. 14:4-1.1, or for repairs, merchandise, installation of conservation measures, or other non-tariff services contracted for between the customer and the utility, nor shall the utility threaten discontinuance for any of these reasons.

(c) If a customer receives both residential and business utility service, 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. 14:3-7.8.

(d) A utility may discontinue a customer's service for nonpayment of bills rendered only after the utility has completed all of the following steps:

1. It has met all applicable notice requirements at N.J.A.C. 14:3-3A.3;

2. 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 set forth in the notice of discontinuance issued under N.J.A.C. 14:3-3A.3;

3. It has confirmed on the day on which service may be discontinued, that payment has not been posted to the customer's account at the opening of business on that day;

4. After the end of the notice period in the notice of discontinuance, but before discontinuance of residential service, the electric or gas utility representative shall personally 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. This notice shall be in addition to all other notice required under this subchapter; and

5. If a residential customer offers payment of the full amount or a reasonable portion of the amount due at the time of discontinuance, a utility representative shall 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.

(e) A utility shall not discontinue a customer's service for nonpayment under the following circumstances:

1. 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, failure to pay a cash security deposit or guarantee, or failure to comply with the terms of a deferred payment plan. This limit applies to all residential customers, including those eligible for or enrolled in the Winter Termination Program at N.J.A.C. 14:3-3A.5;

2. If a customer is eligible for the Winter Termination Program under N.J.A.C. 14:3-3A.5, an electric or gas public utility shall not discontinue service to the customer from November 15 through March 15, except as provided under N.J.A.C. 14:3-3A.5;

3. If a customer is eligible for the Winter Termination Program and the high temperature is forecast to be 95 degrees Fahrenheit or more at any time during the following 48 hours, an electric utility shall not discontinue residential service to a customer for reasons of nonpayment, failure to

pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement;

4. If a customer meets the conditions for a medical emergency in (i) below, a utility shall not discontinue service except in accordance with (i) below; and

5. A utility shall not discontinue service because of nonpayment in cases where a charge is in dispute, provided the undisputed charges are paid and the customer has requested that the Board investigate the disputed charge, in accordance with N.J.A.C. 14:3-7.6(b).

(f) (Reserved.)

(g) In applying the temperature-related limits at (e)1 and 3 above, a utility shall rely on forecasts obtained from national weather stations covering the utility's facilities, including the Newark Weather Station and the Atlantic City Airport Weather Station. If a utility's service territory is covered by more than one national weather station, and these weather stations forecast different high temperatures, the utility shall rely on the lowest forecast in applying (e)1, and shall rely on the highest forecast in applying (e)3.

(h) Nothing in this section shall relieve the customer of any financial obligation to the electrical utility providing the service.

(i) Discontinuance of residential service for nonpayment is prohibited for up to 60 days if a medical emergency exists within the residential premises, which would be aggravated by a discontinuance of service. The following conditions apply to this 60-day prohibition on discontinuance:

1. The utility may require the customer to provide reasonable proof of inability to pay;

2. The utility may require the customer to submit a written physician's statement to the utility, stating the existence of the emergency, its nature and probable duration, and that discontinuance of service will aggravate the medical emergency;

3. The utility may require submittal of a recertification by the physician as to the continuing nature of the medical emergency after 30 days;

4. At the end of such period of emergency, the customer shall remain liable for payment for all service(s) rendered, subject to N.J.A.C. 14:3-7.6; and

5. If, during the period of medical emergency, the customer incurs telephone charges in excess of the customer's average telephone bills of the six months preceding the first 30-day period, the utility may require the telephone customer to pay those excess charges during the medical emergency.

(j) The Board may extend the 60-day period in (i) above for good cause. The customer shall request such an extension from Board staff in writing. The request shall be accompanied

by an updated physician's note that meets the requirements of (i)2 above. Pending the Board's consideration and decision regarding the request for extension, utility service shall not be discontinued.

Recodified in part from N.J.A.C. 14:3-3.6 and amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Recodified former (a) through the introductory paragraph of (c) as N.J.A.C. 14:3-3A.1; added new (a) through (d)1; recodified former (c)1 through (c)4 as (d)2 through (d)5; in (d)2, inserted "set forth in the notice of discontinuance issued under N.J.A.C. 14:3-3A.3"; in (d)3, substituted "service may be discontinued" for "termination may occur"; rewrote (d)4; in (d)5, substituted "discontinuance" for "termination", deleted "be required to" preceding "accept payment" and substituted a period for a semicolon at the end; added the introductory paragraph of (e); recodified former (c)5 as (e)1; recodified former (c)6 as (e)2 and (e)3; in (e)1, inserted "is" preceding "forecast", substituted "40" for "32", rewrote the last sentence and deleted "and" from the end; rewrote (e)2 and (e)3; added (e)4 and (e)5; added (f) and (g); recodified former (c)6i as (h); in (h), substituted "section" for "paragraph"; recodified former introductory paragraph of (d) as (i); rewrote (i); recodified former (d)1 as (j); rewrote (j); and deleted former (d)2.

Amended by R.2009 d.15, effective January 5, 2009.

See: 40 N.J.R. 2414(a), 41 N.J.R. 270(a).

In (e)1, substituted "32" for "40" and "Program" for "program"; in (e)2, substituted "March 15" for "April 1"; in (e)3, substituted "95" for "90" and deleted ", or the National Weather Service heat index is forecast to be 90 degrees or more," following "more"; and repealed (f).

Cross References

Residential electric and gas service, winter termination program, see N.J.A.C. 14:3-3A.5.

Billing disputes, see N.J.A.C. 14:3-7.6.

Case Notes

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.

14:3-3A.3 Notice of discontinuance for nonpayment

(a) Before discontinuing a customer's service for nonpayment, a utility shall notify the customer that the bill has not been paid and that the service will be discontinued, in accordance with this section.

(b) The notice of discontinuance sent to the customer shall be postmarked no earlier than 15 days after the postmark date of the outstanding bill, except for a water utility customer with fire protection or multi-use service under N.J.A.C. 14:3-3A.4(j). In the absence of a postmark, the burden of proving the date of mailing shall be upon the utility.

(c) The notice of discontinuance for nonpayment shall provide the customer with at least 10 days written notice of the utility's intention to discontinue service. The 10 days shall begin on the postmark date of the notice. This written notice shall be sent by first class mail, apart from the bill and as a separate mailing. However, should a utility find that compliance with this rule would result in financial harm and/or would negatively impact the utility's daily operations, the utility may file a written request for exemption with the

Secretary of the Board, setting forth the basis for such request.

(d) 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, a customer pays the bill by check and the check is subsequently dishonored.

(e) A public utility shall, upon request of the customer, send a Spanish language version of the notice of discontinuance.

(f) 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 Winter Termination Program. Electric and gas utilities shall submit drafts of their proposed fact sheets to Board staff no later than October 1 of each year, for approval for use during the following heating season.

(g) If service is being discontinued both for nonpayment and for one or more of the reasons set forth at N.J.A.C. 14:3-3A.1(a)3 and/or 4, the utility may provide notice under N.J.A.C. 14:3-3A.1(b) rather than under this section, and immediate payment of accounts may be required.

New Rule, R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Cross References

Residential electric and gas service, winter termination program, see N.J.A.C. 14:3-3A.5.

14:3-3A.4 Additional notice requirements for discontinuance of residential and special customers

(a) The notice requirements in this section shall apply in addition to the requirements in N.J.A.C. 14:3-3A.3.

(b) Each public utility 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.

(c) Each public utility 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 that 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.

(d) 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. This subsection does not apply to water, wastewater, or telecommunications public utilities.

(e) Each public utility shall provide written notice to the Board's Division of Customer Assistance at least 14 business days prior to the discontinuance of service to a hospital, nursing home, assisted care facility, public or private school, college or university, or airport or other major transportation facility including, but not limited to, railroad, bus and subway facilities. The notification shall include:

1. The name of the customer of record;
2. The location of the premises;
3. The amount owed;
4. A statement of account including payment history;
5. The method of and attempts made for negotiation and resolution; and
6. The scheduled discontinuance date.

(f) 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.

(g) On all notices of discontinuance to residential customers, from all public utilities, there shall be included:

1. A statement that the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities; which includes the address and the following telephone numbers for the Board: (973) 648-2350 and 1-800-624-0241 (toll free);
2. A statement that in the event the customer is either unable to make payment of a bill or wishes to contest a bill the customer should contact the utility. The notice shall contain information sufficient for the customer to make appropriate inquiry; and
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 service from the same utility, the statement shall state that deferred payment agreements are available separately for each utility service.

(h) On all notices of discontinuance to residential electric and gas customers there shall be included, in addition to the other information required under this subchapter, all of the following:

1. A statement that the customer may dispute a charge in accordance with N.J.A.C. 14:3-7.6, and 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 of disputing the charges, 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 for nonpayment of bills, provided all undisputed charges are paid; and

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

(i) The statements required to be included on notices of discontinuance of electric and gas customers pursuant to (g) and (h) above shall be printed on the back of the notice under the headline (in boldface) "STATEMENT OF CUSTOMER'S RIGHTS." The headline shall be printed in type no less than one-half inch in height (36 points). The individual statements shall be printed in type no less than 1/6 inch in height (12 points). No other matter shall be printed upon the back of the notice. On the front of the notice shall appear a statement in boldface type, indicating that important information regarding the customer's rights is found on the back of the notice.

(j) Each water utility shall provide the following notice to customers with fire protection service or multi-use service, in addition to the other notice required in this section:

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

- i. The fire protection or multi-use service customer of record;
- ii. The property owner, if different than the customer of record;
- iii. The mayor of the municipality in which the service is provided;
- iv. The fire chief of the municipality in which the service is provided;
- v. The enforcing housing code official of the municipality in which the service is provided;
- vi. The enforcing uniform fire code official of the municipality in which the service is provided;
- vii. The welfare officer of the municipality in which the service is provided; and
- viii. The Board of Public Utilities; and

2. If fire protection service or multi-use service is discontinued, the water utility shall, immediately after the discontinuance, notify via certified mail the parties listed in (j)1 above and in addition:

Customer Service Division
Insurance Service Office
Commercial Risk Services

2 Sylvan Way
Parsippany, New Jersey 07054.

New Rule, R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).
Amended by R.2009 d.15, effective January 5, 2009.
See: 40 N.J.R. 2414(a), 41 N.J.R. 270(a).
In (i), inserted the last sentence.

Cross References

Billing disputes, see N.J.A.C. 14:3-7.6.

14:3-3A.5 Winter Termination Program for residential electric and gas service

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

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

(b) Those residential electric or gas customers whose service has been discontinued for non-payment and not 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 of receiving electric and/or gas service during the current heating season. The customer shall be notified, at the time of enrollment in a budget billing plan as required by (c) below, that the 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

Former N.J.A.C. 14:3-6.6, Telephone system information, recodified to N.J.A.C. 14:3-6.8.

14:3-6.7 Reporting suspicious acts

(a) Each public utility shall report to the Board within six hours of becoming aware of the occurrence of any of the following incidents:

1. Theft of a marked public utility vehicle, identification document, badge or uniform(s) bearing the public utility's logo;
2. Forced entry to any utility facility, or entry achieved by deception;
3. Unauthorized photography or videotaping of any utility facility;
4. Extensive note-taking, or audio recording, regarding any utility facility; and
5. Intentional damage to any utility facilities or equipment. This does not include vehicle accidents, automobile collisions with utility poles, damage to underground facilities by an excavator or other third party, which is reported in accordance with other Board rules, or routine vandalism, such as graffiti or vandalism to utility vehicles.

(b) Each public utility shall keep a record of any incident described under (a) above for 10 years after the incident, which shall be made available to Board staff upon request.

New Rule, R.2008 d.119, effective May 19, 2008.
See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

14:3-6.8 Customer service telephone system report

(a) On January 1 and July 1 of each year, each public utility shall provide the Board with the following information concerning the operation of the utility's telephone system for accepting customer complaints and inquiries:

1. The location of each office from which telephone calls from customers and the general public are normally received and the number of customers served by that office;
2. The days of the week and the hours in which the office is open to conduct business with the public and receive telephone calls;
3. The telephone number(s) by which customers may call the utility;
4. The method by which customers are informed of the telephone number(s) to be used to contact the utility;
5. Whether or not the customers are requested to dial a single telephone number or a separate number depending on the nature of their inquiry;
6. Whether or not inward telephone traffic is grouped to individual departments, such as service or billing, along with the total number of such departments and the identification of each department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. If a telephone answering service is used:

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

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

(b) Within 30 days after making any substantive change in the information filed pursuant to this section, a utility shall inform the Board of the change.

(c) If a utility uses a telephone answering service instead of its own employees, the utility shall ensure that the service informs each customer that they are speaking to an answering service and not to the utility's employees.

New Rule, R.1997 d.39, effective February 3, 1997.

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

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

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

In (a), substituted "On January 1 and July 1 of each year, each" for "Each" and inserted "and Class A wastewater".

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

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

In (a), recodified former 21iii as (b); added (c).

Recodified from N.J.A.C. 14:3-6.6 and amended by R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Section was "Telephone system information". In the introductory paragraph of (a), substituted "public" for "electric, gas, local exchange carrier telephone, Class A water and Class A wastewater" and inserted "for accepting customer complaints and inquiries"; in (b), substituted "Within" for "Each utility shall, within" and "after making" for "in, inform the Board of" and inserted "a utility shall inform the Board of the change"; in (c), inserted "instead of its own employees", substituted "shall" for "must" preceding "ensure", "informs" for "shall inform" and "utility's employees" for "utility".

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

14:3-7.1 Billing general provisions

(a) The customer(s) of record, as defined at N.J.A.C. 14:3-1.1, shall be responsible for payment for all utility service rendered.

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

(c) A utility that provides all written notices of discontinuance in both Spanish and English shall not be required to provide the option and toll free telephone numbers for Spanish discontinuance notices, required under (b) above. Such a utility shall instead demonstrate to the Board that it provides all discontinuance notices in Spanish, as well as English. The utility shall submit copies of the notices, and shall certify that

the utility's notice practices provide Spanish speaking customers with a notice of discontinuance that is equivalent to or better than that which would be provided through compliance with (b) above. If such a utility stops providing all written notices of discontinuance in both Spanish and English, the utility shall provide the option and toll free telephone number in accordance with (b) above.

(d) A public utility shall pay or credit interest at the rate prescribed by the Board in N.J.A.C. 14:3-3.5, 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 the customer notifies the utility in writing, identifying, describing and documenting the error in detail. The following shall apply to this provision:

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 a 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; and

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

(e) A utility shall not assess a late payment charge on a residential customer, or on a State, county or municipal government entity. In addition, a utility shall not apply a late payment charge sooner than 25 days after a bill is rendered.

(f) Each utility shall ensure that every bill it issues includes the following text, legibly printed in an obvious location: "This utility provides services regulated by the New Jersey Board of Public Utilities, which can be reached at 800-624-0241 and 973-648-2350." This text shall be printed in Arial bold font, at least 18 points in size.

(g) If a notice of discontinuance is not in Spanish, the notice shall include a statement in Spanish, in boldface type, identifying the notice as a discontinuance notice, and providing the toll-free number required under N.J.A.C. 14:3-7.1(b).

Repeal and New Rule, R.2008 d.119, effective May 19, 2008.

See: 39 N.J.R. 4077(b), 40 N.J.R. 2481(a).

Section was "Deposits for metered and telephone service".

Amended by R.2009 d.15, effective January 5, 2009.

See: 40 N.J.R. 2414(a), 41 N.J.R. 270(a).

In (f), substituted "Arial bold font, at least 18 points in size" for "type no less than one-half inch in height (36 points)"; and added (g).