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NEW JERSEY BOARD OF PUBLIC UTILITIES

Proposed readoption With Amendments

N.J.A.C. 14:3, All Utilities

Proposed October 1, 2007

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PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

All Utilities

Proposed Readoption With Amendments: N.J.A.C. 14:3

Authorized by: Board of Public Utilities, Jeanne M. Fox, President,
 Frederick F. Butler, Joseph L. Fiordaliso, and
 Christine V. Bator, Commissioners.

Calendar reference: See Summary below for an explanation of exception
 to calendar requirement.

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

BPU Docket Number: AX07040242.

Proposal Number: PRN 2007-

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A public hearing on the readoption proposal will be held on November 1, 2007 at 10:00 a.m. at:

Board Hearing Room
New Jersey Board of Public Utilities
8th Floor
Two Gateway Center
Newark, New Jersey

Comments may be submitted through November 30, 2007 by e-mail to rule.comments@bpu.state.nj.us, or on paper to:

Kristi Izzo, Board Secretary
New Jersey Board of Public Utilities
Attention Docket Number: AX07040242
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities is herein proposing to readopt with amendments its existing rules at N.J.A.C. 14:3, which address all utilities. Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 14:3 expires on July 31, 2007. These rules provide basic requirements for all utilities regulated by the Board, which include water, wastewater, electricity, gas, and telephone utilities. While the Board regulates cable television operators, these are not governed by this chapter, as the Board's enabling statutes do not define them as utilities. Accordingly, throughout the chapter, provisions that regulate cable television service are proposed for amendment or deletion.

Most of the changes proposed herein are rephrasings or reorganization for clarity. For example, the term "company" is replaced with the term "utility" throughout the rules, to more precisely describe the entity regulated.

Following is a section-by-section summary of the proposal:

SUBCHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

In the introductory language of existing N.J.A.C. 14:3-1.1, a reference is added to the Board's energy emergency rules (N.J.A.C. 14:29), since many of the terms defined in this section are used in that chapter as well as the other chapters listed. In addition, new definitions of "Class A water utility," "electric public utility," "gas public utility," "normal business hours," "telephone utility," "wastewater utility," and "water utility," are proposed, to clarify existing provisions throughout the chapter. The definition of "Class A water utility" incorporates by reference the classification scheme used by the National Association of

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Regulatory Commissioners (NARUC), which classifies water utilities by revenue. The existing definition of “customer” is renamed “customer of record” and clarified to indicate that this is the person named on the account and responsible for the bill. A new definition of “customer” is added, and corresponding amendments are proposed to the definition of “end user” to clarify the differences among the three terms. Finally, the definition of “utility” is proposed to be replaced with a definition of “public utility,” to more closely track statutory language.

A new section is proposed at N.J.A.C. 14:3-1.2, to describe the entities to which the chapter applies, and to clarify the utilities’ compliance responsibilities.

A new section is proposed at N.J.A.C. 14:3-1.3, which addresses tariffs. The substance of this section is taken from existing N.J.A.C. 14:1-11. These provisions will be proposed for deletion from N.J.A.C. 14:1 through an upcoming Board proposal. The provisions are reorganized and reworded for clarity, but their substance is the same. The provisions are also simplified through the removal of outdated and excessively detailed format requirements for tariff filings at existing N.J.A.C. 14:1-11.3 (for example, paper size, page numbering conventions, etc.), as well as sample tariff filings at existing N.J.A.C. 14:1-11.5. The Board will post updated format samples and guidance for tariff filings on the Board’s website.

SUBCHAPTER 2. PLANT

Existing N.J.A.C. 14:3-2.1, which addresses the construction of utility plant and facilities, is proposed for readoption with minor clarifying changes that do not affect its meaning. In addition, a new requirement is added that utilities conduct construction so as to provide safe, adequate and proper service, and the requirement that utilities protect their property from injury is made somewhat more stringent. Also, proposed new (d), (e) and (f) set forth detailed provisions regarding construction, ownership and maintenance of extensions of service. These proposed new provisions complement and cross reference N.J.A.C. 14:3-8, which covers the separate question of whether the utility or the applicant pays for the extension. Finally, a proposed change to (c) makes it mandatory for utilities to cooperate to minimize interference among different utility systems.

No changes are proposed to existing N.J.A.C. 14:3-2.2, which requires utilities to inspect any work performed by the utility’s contractors.

Existing N.J.A.C. 14:3-2.3, which sets forth requirements for equipment mounted on utility poles, is proposed for readoption with many clarifying changes, but no change in meaning, except for a new requirement that utilities comply with the Uniform Construction Code, and the proposed change of the recommendation in (a) to a mandate that facilities be located and attached in accordance with standard industry practice.

Existing N.J.A.C. 14:3-2.4, which requires utilities to display their name on their structures, is proposed for readoption without change.

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Existing N.J.A.C. 14:3-2.5, which requires that utilities place identifying marks on their equipment, is proposed for readoption with clarifying changes that do not affect its meaning.

Existing N.J.A.C. 14:3-2.6, which requires utilities to maintain its facilities, is proposed for readoption without change.

Existing N.J.A.C. 14:3-2.7, which requires utilities to inspect its facilities, is proposed for readoption without change.

Existing N.J.A.C. 14:3-2.8, which addresses work by non-utility personnel on or around utility facilities, is proposed for readoption with a new requirement that only utility employees or other qualified persons work on utility equipment when the equipment is in use serving customers. In addition, text from the Underground Facility Protection Act is replaced with a cross reference to the Board's rules implementing that Act, and a cross reference to N.J.S.A 2A:170-69.4 is deleted because this law has been repealed.

SUBCHAPTER 3. SERVICE

Existing N.J.A.C. 14:3-3.1, which sets forth a utility's basic duty to provide service and conserve resources, is proposed for readoption with no change, except for the deletion of a cross reference to a rule that is no longer in effect.

Existing N.J.A.C. 14:3-3.2, which pertains to customer applications for utility service, is proposed for readoption with minor changes. A requirement at (c) that applies to fire protection service from a water utility is proposed for deletion, as this is no longer required in the Board's rules governing water utilities at N.J.A.C. 14:9. The type of documents that a utility must accept to provide an applicant's identity and prior address is narrowed by the deletion of mailing envelopes, and utilities are provided with discretion to accept other types of documentation. In an effort to increase customer protection against identity theft, new (h) prohibits a utility from requiring a social security number.

Existing N.J.A.C. 14:3-3.3, which sets forth information that the utility is required to provide to customers, is proposed for readoption with minor clarifications that do not affect its meaning. A provision requiring that tariffs be open to inspection is deleted because this is covered at N.J.A.C. 14:3-1.3(i).

Existing N.J.A.C. 14:3-3.4, which requires the utility to obtain municipal permits at the customer's expense, is recodified as N.J.A.C. 14:3-3.3(e).

Proposed new N.J.A.C. 14:3-3.4 sets forth provisions concerning deposits the utility may require from applicants for service. These provisions are relocated from existing N.J.A.C. 14:3-7.1(a) through (c), 14:3-7.2, 14:3-7.3(a) and (b), and 14:3-7.4. The proposal rephrases and reorganizes the provisions for ease of understanding, including the

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clarification that the term “in default” refers to the 15 day period that the utility must allow the customer for payment, found in the existing rules at N.J.A.C. 14:3-7.12(a). The substance of these provisions is unchanged, except for one substantive change at proposed N.J.A.C. 14:3-3.4(b)3. This provision, which excludes advance payments from use in calculating average bills when determining deposit amounts, has been broadened slightly. In the existing provision, telephone utilities are not covered by this provision, whereas they are covered by the proposed provision. Finally, proposed new N.J.A.C. 14:3-3.4(h) requires that a utility inform a customer of the applicable interest rate at the time the customer makes a deposit.

Proposed new N.J.A.C. 14:3-3.5 sets forth provisions concerning interest on deposits and the return of deposits to customers. These provisions are relocated from existing N.J.A.C. 14:3-7.5(a) through (c) with minor clarifying amendments and reorganization that do not change their meaning. In addition, a requirement that a deposit remain with a utility for three months to earn interest is proposed for deletion.

Existing N.J.A.C. 14:3-3.5 is proposed for deletion, as its content is proposed for relocation at N.J.A.C. 14:3-8.3(f) and (g).

Proposed new N.J.A.C. 14:3-3.6 sets forth provisions concerning the utility’s right to access to a customer’s premises. These provisions are relocated from existing N.J.A.C. 14:3-3.8(a). Despite some rephrasing and reorganization for clarity and ease of understanding, the substance of these provisions is unchanged.

Proposed new N.J.A.C. 14:3-3.7, which addresses utility responsibilities regarding interruptions of service, contains provisions relocated from existing N.J.A.C. 14:3-3.9. Despite some rephrasing and reorganization for clarity and ease of understanding, the substance of these provisions is unchanged. In addition, proposed new (c) clarifies that telecommunications utilities are subject to specific interruption provisions in the telecommunications rules, rather than those in this section. Proposed (d) establishes a list of interruptions for which reporting is required if the interruption continues for thirty minutes or more, including hospitals and major transportation. Proposed (e) adds a thirty minute deadline to reporting required under existing N.J.A.C. 14:3-3.9(b) based on number of customers affected. Proposed (e) also adds a list of special interruptions for which 30 minute reporting is required if the interruption continues for two hours. Proposed (f) describes the category of “critical customers” for which reporting is required under (e).

Proposed new N.J.A.C. 14:3-3.8, which addresses utility responsibilities regarding the scheduling of service calls, contains provisions relocated from existing N.J.A.C. 14:3-3.10. The provisions are rephrased for clarity, and strengthened by requiring the utility to commit to a four hour time period, and to notify the customer of a cancellation no later than the close of business the previous day.

SUBCHAPTER 3A. DISCONTINUANCE AND RESTORATION OF SERVICE

Proposed new subchapter 3A consolidates provisions governing discontinuance and restoration of a customer's service, found in the existing rules at N.J.A.C. 14:3-3.6, 3.7, 7.3, 7.12, 7.12A, 7.13, 7.14, and 7.15.

Proposed N.J.A.C. 14:3-3A.1, which governs the basis for a utility to discontinue a customer's service, is recodified from existing N.J.A.C. 14:3-3.6(a), (b) and portions of (c), with minor clarifying amendments that do not change its meaning. Redundant phrases found in other parts of the chapter are deleted, and provisions requiring notice are separated from other provisions and placed in a separate section (proposed N.J.A.C. 14:3-3A.3) for emphasis and clarity.

Proposed new N.J.A.C. 14:3-3A.2, which governs discontinuance of a customer's service specifically because of nonpayment of charges, is recodified from existing N.J.A.C. 14:3-3.6(c) (portions) and (d), with reorganizations and clarifications that do not change meaning, except that the threshold dollar amount of arrearage is increased to \$100 from \$50 to reflect increases in utility bills. In addition, proposed new (b) and (c) are relocated from existing N.J.A.C. 14:3-3.6(a)3i. Proposed new (e)5 contains the substance of existing N.J.A.C. 14:3-7.13(a), and existing (d)2 is deleted as it is redundant with the permissive language of the section, which does not require the utility to discontinue service, but merely permits it to do so. Finally, the low temperature at which electric or gas service discontinuance for nonpayment is prohibited during the winter heating season is proposed to be increased from 32 to 40 degrees Fahrenheit. This will provide greater protection to customers, and should not impose an undue burden on utilities because of the many additional assistance programs that have been instituted since the rules were last adopted.

The proposal would also change the high temperature at which electric or gas service discontinuance for nonpayment is prohibited, from 95 degrees Fahrenheit to 90 degrees Fahrenheit or a heat index of 90. National Weather Service analyses show that the potential for life-threatening health consequences from excessive heat begins to arise at 90° Fahrenheit, and becomes pronounced under typical summer conditions in New Jersey as the temperature rises from 90° to 95° Fahrenheit. Further, the NWS categorizes health risk using the Heat Index, which is a function of temperature and relative humidity. The Heat Index begins to reach the "Extreme Danger" range at 90° Fahrenheit with very high relative humidity. The average daily high relative humidity in many parts of New Jersey exceeds 75% throughout the summer months. The Heat Index also reaches the "Danger" range, at which heat exhaustion is likely and heat stroke becomes possible with prolonged exposure, at a relative humidity of between 65 and 70% when the temperature is 90° Fahrenheit, and at a relative humidity of 50% by the time the temperature reaches 95° Fahrenheit. To help prevent heat-related deaths, the proposal sets the trigger for the prohibition at 90° Fahrenheit or a heat index of 90, and adds a definition of "heat index" at proposed N.J.A.C. 14:3-3A.2(f).

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Proposed N.J.A.C. 14:3-3A.3, which provides for utility notice of discontinuance of a customer's service for nonpayment, contains provisions found in existing N.J.A.C. 14:3-7.12(a) and 7.12A(g). The provisions are consolidated and relocated for ease of understanding, and are reorganized and rephrased somewhat for clarity with no change in meaning.

Proposed N.J.A.C. 14:3-3A.4, which provides additional notice requirements for discontinuance of residential and special customers, contains provisions found in existing N.J.A.C. 14:3-7.12. Despite some rephrasing and reorganization for clarity and ease of understanding, the substance of these provisions is unchanged.

Proposed N.J.A.C. 14:3-3A.5, which sets forth the conditions of the Winter Termination program, contains provisions found in existing N.J.A.C. 14:3-7.12A. Despite some rephrasing and reorganization for clarity and ease of understanding, the substance of these provisions is unchanged. In addition, the date upon which the heating season ends is proposed to be changed from March 15 to April 1. This will provide greater protection to customers, and should not impose an undue burden on utilities because of the many additional assistance programs that have been instituted since the rules were last adopted.

Existing N.J.A.C. 14:3-7.14, which governs the discontinuance of electric, gas, water and wastewater service to tenants, is recodified as N.J.A.C. 14:3-3A.6. Despite minor rephrasing for clarity, the substance of these provisions is unchanged.

Existing N.J.A.C. 14:3-7.15, which governs notice to municipalities of discontinuance of residential gas and electric service, is recodified as proposed N.J.A.C. 14:3-3A.7. Despite some rephrasing for clarity, including resolving an obvious inconsistency between the last sentence of (b)4 and the provision that it cross-references by changing "may" to "shall", the substance of these provisions is unchanged.

Existing N.J.A.C. 14:3-7.17, which governs discontinuance of residential telephone service, is proposed to be recodified as N.J.A.C. 14:3-3A.8. Despite some rephrasing for clarity, the substance of these provisions is unchanged. Three telephone-related definitions are deleted because these terms are used in neither the existing rules nor the proposed readoption. The last sentence of proposed at N.J.A.C. 14:3-3A.8(f)1ii (found in the fourth sentence of existing N.J.A.C. 14:3-7.17(d)1) is deleted, as it provides an exception to a requirement in the Board's telephone rules that no longer exists. The substance of existing N.J.A.C. 14:3-7.17(e)1 is relocated at proposed N.J.A.C. 14:3-3A.4(g)3. None of these proposed amendments alter the substance of the section.

Proposed N.J.A.C. 14:3-3A.9, which provides for restoration of service after discontinuance, contains provisions found in existing N.J.A.C. 14:3-3.7. Despite some rephrasing and reorganization for clarity, the substance of these provisions is unchanged. In addition, proposed new (c) clarifies that, while a utility may require a deposit for restoration of service, it may not require that the deposit be paid prior to restoration. Instead, the utility must bill the customer for the deposit. In the Board's experience, this

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arrangement has worked well informally for restoration of customers previously discontinued for nonpayment, and should be codified as standard practice.

Existing N.J.A.C. 14:3-3.8, which governs access to customer premises, is proposed for deletion and its substance is relocated to proposed N.J.A.C. 14:3-3.6, which is described above.

Existing N.J.A.C. 14:3-3.9, which governs service interruptions, is proposed for deletion and its substance is relocated to proposed N.J.A.C. 14:3-3.7, which is described above.

Existing N.J.A.C. 14:3-3.10, which governs service call scheduling, is proposed for deletion and its substance is relocated to proposed N.J.A.C. 14:3-3.8, which is described above.

SUBCHAPTER 4. METERS

Existing N.J.A.C. 14:3-4.1, which addresses ownership of meters and other utility equipment, is proposed for readoption with clarifying amendments and substantive amendments. Provisions at (a) and (b) that require utilities to provide certain equipment at no charge are deleted and replaced with cross references to the Board's extension rules at N.J.A.C. 14:3-8, which now govern these matters. In general, the extension rules prohibit utilities from paying for such customer equipment in any area not designated for growth.

Existing N.J.A.C. 14:3-4.2, which addresses the location of meters, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, a reference to utility tariffs is proposed for deletion, as the rules govern rather than the tariff. Also, requirements for protection and accessibility of meters are strengthened and made mandatory.

Existing N.J.A.C. 14:3-4.3 is proposed for deletion because it merely cross references another section of the rules, which already stands on its own. Proposed new N.J.A.C. 14:3-4.3 includes definitions of terms used in the subchapter.

Existing N.J.A.C. 14:3-4.4, which governs the equipment used to test and calibrate customer utility meters, is proposed for repeal and replacement with new provisions. The new section provides much more specificity regarding the required testing of equipment that a utility uses to test customer meters, including equipment used to calibrate the meter testing equipment. Meter testing equipment must be certified by the New Jersey Office of Weights and Measures in the Department of Law and Public Safety (or a laboratory they and the National Institute of Standards and Technology have approved), at one year or five year intervals, at the utility's expense.

Existing N.J.A.C. 14:3-4.5, which provides for a utility to test a meter at the customer's request, is proposed for readoption with a minor clarifying amendment.

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Existing N.J.A.C. 14:3-4.6, which provides for the Board to test a meter at the customer's request, is proposed to be recodified as N.J.A.C. 14:3-4.5(e) and (f), with minor clarifying amendments that do not change its meaning.

Existing N.J.A.C. 14:3-4.7, which addresses the adjustment of charges for meter error, is proposed for recodification as N.J.A.C. 14:3-4.6, with clarifying amendments that do not change its meaning, including a clarification that no adjustment is needed if a meter is registering slow except for theft or similar reasons, a step-by-step explanation at (c) of how to determine the time period for which the utility must adjust the charges, and a clarification at (e) that immediate payment may be required in cases where a meter registers less than 110 percent because of theft or similar reasons. In addition, a six-year limit on the time period for which a utility must adjust charges for meter error is deleted, in order to promote fairness to customers and to encourage utilities to ensure that meters are accurate. Also, (d) is clarified to prevent a utility from being required to reimburse an existing customer for overbilling of a previous customer.

Existing N.J.A.C. 14:3-4.8 and 4.9, which requires meter test reports and record keeping, are proposed for readoption with minor clarifying amendments that do not change meaning. The two sections are combined and recodified as N.J.A.C. 14:3-4.7. A requirement is added for a copy of a meter's test after its final use, and also for a copy of the letter certifying a meter tested by a lab other than New Jersey Weights and Measures.

Existing N.J.A.C. 14:3-4.10, which governs meter replacement, is proposed for readoption with minor clarifying amendments that do not change its meaning, and recodified at N.J.A.C. 14:3-4.8.

SUBCHAPTER 5. CONTACTING THE UTILITY

Existing N.J.A.C. 14:3-5.1, which governs the location of utility offices, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, a requirement is added that a utility that wishes to relocate a customer call center outside of New Jersey first demonstrate that the customer service representatives in the new location will have a thorough knowledge of certain conditions that affect New Jersey utility customers.

Existing N.J.A.C. 14:3-5.2, which pertains to contacting the utility, is proposed for readoption with minor clarifying amendments that do not change its meaning, and with the addition of portions of the substance of existing N.J.A.C. 14:3-5.1(d). Broad provisions from existing N.J.A.C. 14:3-5.2 and 5.3 are spelled out in much more detail at proposed (a), and new requirements are added for a control room contact number, for utility representatives to assist the Board in resolving complaints, and for electronic means of contacting the utility.

Existing N.J.A.C. 14:3-5.3 requires the utility to provide certain methods for contacting the utility in an emergency. Existing N.J.A.C. 14:3-5.3(a), (b) and (e) are proposed to be

recodified as N.J.A.C. 14:3-5.2(e) through (g), with minor clarifying amendments that do not change their meaning. Existing N.J.A.C. 14:3-4.6(c) and (d) are proposed for deletion, as they are redundant with N.J.A.C. 14:3-5.2(a).

SUBCHAPTER 6. RECORDS AND REPORTING

Existing N.J.A.C. 14:3-6.1, which addresses the location of records required under this chapter, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, existing N.J.A.C. 14:3-7.8, which addresses the duration of recordkeeping, is proposed to be relocated to N.J.A.C. 14:3-6.1(b); and proposed new N.J.A.C. 14:3-6.1(c) contains a list of reporting provisions in the chapter, to assist utilities in complying with these requirements.

Existing N.J.A.C. 14:3-6.2, which pertains to recordkeeping regarding utility infrastructure and its operation, is proposed for readoption with minor clarifying amendments that do not change its meaning, including deletion of a requirement at (d) whose deadline date has passed, and deletion of a requirement at (i) that no longer applies because all entities subject to these rules have already begun providing service. Also, requirements for Board inspector access to documents are deleted as they are already stated at N.J.A.C. 14:3-6.1. In addition, N.J.A.C. 14:3-6.2(a) is modified to require that data regarding utility infrastructure must be available to Board staff. Because of the potential for threats to infrastructure from terrorists or others, the proposed rules do not require that this information be made routinely available to the public. Thus, the rules as proposed do not address the issue of the public availability of this information.

Existing N.J.A.C. 14:3-6.3, which pertains to financial and operations reports, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, N.J.A.C. 14:3-6.3(a) requires utility emergency contact information as part of these reports, N.J.A.C. 14:3-6.3(b) deletes a meaningless sentence, and (e) makes the filing of a request for Board reconsideration of a denial of a reporting deadline extension an option for the utility.

Existing N.J.A.C. 14:3-6.4(a) through (d), which pertain to initial telephone reports of accidents, are proposed for readoption with minor clarifying amendments and reorganizations that do not change meaning. In addition, provisions for written follow up accident reporting are proposed for deletion from this section and relocation into a separate section (proposed new N.J.A.C. 14:3-6.5). A requirement for a detailed report is deleted as it is redundant with the sentence immediately following, which requires a demonstration that it was not possible to have provided timely, complete and accurate notice to the Board. Excessive detail regarding the numbering of reports is also proposed for deletion.

Proposed new N.J.A.C. 14:3-6.5(a) through (c), which pertain to written follow up utility reporting of accidents, include the substance of portions of existing N.J.A.C. 14:3-6.4(c) and (d), with minor clarifying amendments that do not change meaning. Existing N.J.A.C.

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14:3-6.4(f) through (h) are recodified as proposed N.J.A.C. 14:3-6.5(d) through (f), with minor clarifying amendments that do not change their meaning. Existing sample accident report forms are proposed for deletion, as they will now be available on the Board's website at <http://www.state.nj.us/bpu/home/reliability.shtml>.

Existing N.J.A.C. 14:3-6.6, which requires reporting regarding the utility's customer service telephone answering system, is proposed for readoption with minor clarifying amendments that do not change its meaning, and for recodification as N.J.A.C. 14:3-6.8.

Proposed new N.J.A.C. 14:3-6.6 sets forth new requirements that natural gas utilities must report significant natural gas events to the Board. The type of incident that must be reported is defined by cross-reference to the regulations of the U.S. Department of Transportation, which are incorporated by reference. The USDOT definition is very similar to the list of events for which notice is required under the One-Call rules at N.J.A.C. 14:2-4.4, except that these rules apply to a smaller class of entities (gas public utilities only), and also apply to a larger class of equipment and facilities (both above ground and underground). By contrast, the One-Call rules require notice when the events occur in relation to an underground facility that carries natural gas, whether the underground facility is operated by a public utility or other entity.

Proposed new N.J.A.C. 14:3-6.7 sets forth new requirements that utilities record and report suspicious acts to the Board. These provisions are intended to help the Board monitor and prevent interference with utility service or infrastructure by terrorism, sabotage, or major vandalism.

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

Existing N.J.A.C. 14:3-7.1 through 7.5, which pertain to deposits for service, are proposed for deletion because their substance is relocated in the proposal to N.J.A.C. 14:3-3.4 and 3.5, as described above in this Summary.

Existing N.J.A.C. 14:3-7.6, which pertains to utilities that require advance payment for unmetered service, is proposed to be relocated at N.J.A.C. 14:3-3.4(j).

Existing N.J.A.C. 14:3-7.7, which requires that utilities provide certain information to customers, is proposed for deletion because its substance is relocated at proposed N.J.A.C. 14:3-7.1 and 7.2. In particular, the substance of existing N.J.A.C. 14:3-7.7(a) is found at proposed N.J.A.C. 14:3-7.2(b)7, the substance of existing N.J.A.C. 14:3-7.7(b) is found in proposed new N.J.A.C. 14:3-7.1(b), and the substance of existing 7.7(c) is found in proposed new N.J.A.C. 14:3-7.1(c). Proposed N.J.A.C. 14:3-7.1(a) clarifies that the customer of record is responsible for payment. Proposed N.J.A.C. 14:3-7.7(d) and (e) include provisions relocated from existing N.J.A.C. 14:3-7.13(e) and (f) regarding billing errors. Proposed N.J.A.C. 14:3-7.7(f) sets forth a new requirement that the Board's telephone numbers be printed on all bills.

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Existing N.J.A.C. 14:3-7.8, which requires utilities to keep customer account records, is proposed for deletion because its substance is relocated at proposed N.J.A.C. 14:3-6.1(b).

Existing N.J.A.C. 14:3-7.9, which sets forth requirements for bills for metered service, is proposed for recodification as N.J.A.C. 14:3-7.2. Several minor clarifying amendments that do not change meaning are proposed, including deletion of a redundant clause at (e)5, and a requirement is added that a meter reader that cannot obtain access to a customer's meter shall leave the customer a postage paid card to send in the reading. Also, proposed (c) clarifies that utilities may use estimated billing when they cannot read a customer's meter.

Existing N.J.A.C. 14:3-7.10, which sets forth requirements for bills for unmetered service, is proposed for readoption with minor clarifying amendments that do not change its meaning and for recodification as N.J.A.C. 14:3-7.3.

Existing N.J.A.C. 14:3-7.11, which sets forth billing method requirements, is proposed for readoption with minor clarifying amendments that do not change its meaning, including deletion of a redundant sentence at (c), and for recodification as N.J.A.C. 14:3-7.4.

Existing N.J.A.C. 14:3-7.11A, which provides for budget billing plans for residential customers, is proposed for readoption with minor clarifying amendments that do not change its meaning, and for recodification as N.J.A.C. 14:3-7.5. In addition, existing N.J.A.C. 14:3-7.11A(b) is proposed for deletion because it provides an exception that applies only to budget billing plans that are by now expired. Further, existing N.J.A.C. 14:3-7.11A(c) is proposed for deletion because it is redundant with proposed N.J.A.C. 14:3-7.6(b). Explanatory material is added to proposed (b).

Existing N.J.A.C. 14:3-7.12, which provides for a notice of discontinuance of service, is proposed for deletion and its substance is relocated to the proposed new subchapter on discontinuance and restoration of service. See the discussion above in this Summary regarding proposed new N.J.A.C. 14:3-3A.3.

Existing N.J.A.C. 14:3-7.12A, which provides for the Winter Termination Program, is proposed for deletion and its substance is relocated to the proposed new subchapter on discontinuance and restoration of service. See the discussion above in this Summary regarding proposed new N.J.A.C. 14:3-3A.5.

Existing N.J.A.C. 14:3-7.13(a), (b) and (g), which address disputes regarding bills, is proposed for readoption with minor clarifying amendments, and division into smaller subsections. The section is recodified as N.J.A.C. 14:3-7.6. These proposed changes do not change the meaning of the provisions.

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Existing N.J.A.C. 14:3-7.13(c) and (d) are recodified as proposed new N.J.A.C. 14:3-7.7, and placed in a new section addressing deferred payment agreements. In addition, minor clarifying amendments are proposed, which do not change meaning.

Existing N.J.A.C. 14:3-7.13(e) and (f), which address interest on overpayments and late payment charges, respectively, are relocated at proposed N.J.A.C. 14:3-7.1(d) and (e). Prior to the Board's commencement of this rulemaking, Allan Rotto Consultants, Inc. (Rotto) submitted comments to the Board regarding N.J.A.C. 14:3-17.3(e). In its comments, Rotto requested that N.J.A.C. 14:3-7.13(e), which requires interest on overpayments made by a residential customer as the result of a billing error, should also apply to commercial customers. The Board deemed these comments to amount to a request for rulemaking, and informed Rotto that the issue would be addressed when Chapter 3 was reviewed for readoption. The Board considered the issue and has not included Rotto's suggested change in the proposed readoption. The requirement for interest payments to residential customers is found in the Board's authorizing legislation at N.J.S.A. 48:3-2.1. That provision specifically requires interest for residential customers, but is silent regarding interest for non-residential customers. The Board believes that commercial customers, unlike residential customers, are in a position to negotiate with utilities regarding remedies for over billing, and can include such requirements in contracts with the utility. Therefore, the Board has not added this requirement to the rules.

Existing N.J.A.C. 14:3-7.14, regarding discontinuance of service to tenants, is proposed for deletion and its substance is relocated to N.J.A.C. 14:3-3A-6, with minor clarifying changes that do not change its meaning.

Existing N.J.A.C. 14:3-7.15, which pertains to notification to municipalities of discontinuance of gas and electric service to residential customers, is proposed for deletion. The provision is relocated to N.J.A.C. 14:3-3A.7, with minor clarifying changes that do not change its meaning.

Existing N.J.A.C. 14:3-7.16, which pertains to diversion of service, is proposed for recodification as N.J.A.C. 14:3-7.8, with minor clarifying changes that do not change its meaning. A redundant definition is deleted, and record keeping requirements are relocated from (c) to proposed N.J.A.C. 14:3-6.2.

Existing N.J.A.C. 14:3-7.17, which pertains to termination of residential telephone service, is proposed for recodification at N.J.A.C. 14:3-3A.8, with amendments described above in this Summary.

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

Existing N.J.A.C. 14:3-8 governs the cost of construction of extensions, whether they are in a designated growth area or an area not designated for growth, and whether they are residential or non-residential. Throughout this subchapter, references to extensions of cable television service are proposed for deletion, to reflect recent statutory amendments.

Existing N.J.A.C. 14:3-8.1, which provides the scope and applicability of Subchapter 8, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, amendments are proposed to delete cable television operators from the jurisdiction of the rules, in accordance with recent legislation.

Existing N.J.A.C. 14:3-8.1B, which sets forth operative dates of various portions of N.J.A.C. 14:3-8, is proposed for deletion because these dates have passed.

Existing N.J.A.C. 14:3-8.2, which sets forth definitions of terms used in this subchapter, is proposed for readoption with minor clarifying amendments that do not change its meaning, including removal of references to cable television to reflect recent statutory amendments. The definition of “extension” is clarified to indicate that wastewater extensions are defined in the same way as water extensions.

Existing N.J.A.C. 14:3-8.3, which addresses how an applicant applies for an extension and sets forth basic requirements for the construction of the extension, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, provisions are added at (c) to emphasize that the section does not require new easements or rights-of-way when existing ones are in effect, and to clarify that an applicant’s duty to provide an easement or right-of-way does not require the applicant to clear vegetation from the right-of-way. Proposed new N.J.A.C. 14:3-8.3(f) further clarifies that construction of an extension includes site preparation. Finally, proposed new N.J.A.C. 14:3-8.3(g) and (h), which address limits on a utility’s duty to connect service to a customer, are relocated here from existing N.J.A.C. 14:3-3.5(a) and (b), with no change in meaning.

Existing N.J.A.C. 14:3-8.4, which pertains to when an extension may be overhead and when it must be placed underground, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, a requirement is added that wastewater treatment be placed underground, and an erroneous reference to the “subsection” is replaced with a reference to the entire section.

Existing N.J.A.C. 14:3-8.5, which sets forth general provisions that apply to the cost of all extensions, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, a substantive amendment is proposed to (h). The existing rules allow a regulated entity to require an applicant to pay for additional capacity in any area. The proposed amendment would continue to allow the regulated entity to charge the applicant for additional capacity in an area not designated for growth, but would prohibit the utility from charging the applicant for it in a designated growth area. This is more consistent with the subchapter’s goal to encourage infrastructure in growth areas more than in areas not designated for growth.

Existing N.J.A.C. 14:3-8.6, which addresses extensions that will serve development in an area not designated for growth, is proposed for readoption with minor clarifying

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amendments that do not change its meaning, and the deletion of provisions that apply only to time periods that have passed.

Existing N.J.A.C. 14:3-8.7, which addresses extensions that will serve development in an area that has been designated for growth, is proposed for readoption without change.

Existing N.J.A.C. 14:3-8.8, which allows for exemptions to the requirements for an extension in an area not designated for growth, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, modifications are proposed to the exemption for agricultural uses, which broaden the exemption somewhat, and provide examples of specific exempted agricultural uses. A provision is added at (c) to emphasize the Board's authority to require additional information of an applicant for exemption. Finally, the grandparent exemption for projects that were in process as of the effective date of the 2005 adoption, and the exemptions for significant public good and extraordinary hardship, are clarified and examples are added.

Existing N.J.A.C. 14:3-8.9, which sets forth the general requirements for applying the suggested formula for distributing the cost of an extension, is proposed for readoption without change, except for a clarification at (a)3 that extensions that are exempt under N.J.A.C. 14:3-8.8 based on public good or extraordinary hardship are not subject to the suggested formula.

Existing N.J.A.C. 14:3-8.10, which addresses how Board staff will apply the suggested formula to extensions that will serve a development in a designated growth area (except for those serving only a single residential customer), is proposed for readoption without change.

Existing N.J.A.C. 14:3-8.11, which addresses how Board staff will apply the suggested formula to extensions that will serve a single residential customer in a designated growth area, is proposed for readoption without change.

Existing N.J.A.C. 14:3-8.12, which establishes the smart growth infrastructure incentive program (SGIIP), is proposed for readoption without change. This program allows a regulated entity to apply an expedited return of the deposit required under the suggested formula, in areas targeted for development.

Existing N.J.A.C. 14:3-8.13, which provides for penalties and enforcement for non-compliance with subchapter 8, is proposed for readoption without change.

SUBCHAPTER 9. (Reserved)

Existing Subchapter 9, general provisions, is proposed for deletion.

N.J.A.C. 14:3-9.1, which provides that the rules are not retroactive, is not necessary as this is a matter of law.

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Existing N.J.A.C. 14:3-9.2, which provides for a petition for waiver from the requirements of the rules, is redundant with waiver provisions at N.J.A.C. 14:1-1.2(b).

The substance of existing N.J.A.C. 14:3-9.3, regarding tariffs, has been relocated at N.J.A.C. 14:3-1.3(j).

Existing N.J.A.C. 14:3-9.4 is proposed for deletion, as it merely cites the Board's statutory authority for the rules.

Existing N.J.A.C. 14:3-9.5 is proposed for deletion, as it states that these rules supersede previous rules, which is a matter of law.

The substance of existing N.J.A.C. 14:3-9.6, regarding off-tariff agreements, has been relocated at N.J.A.C. 14:3-1.3(e) and (f).

SUBCHAPTER 10 TARGETED REVITALIZATION INFRASTRUCTURE PROGRAM (TRIP)

Existing N.J.A.C. 14:3-10.1 introduces the Targeted Revitalization Incentive Program (TRIP), a pilot project under which the Board will authorize infrastructure projects that are consistent with local and regional planning, in areas targeted for redevelopment. This section is proposed for readoption without change, except for the deletion of a subsection regarding the operative date of the subchapter, which references a date which has now passed, and an amendment at subsection (c) to supplement the term "cable television operators" pursuant to N.J.A.C. 14:18-14.

Existing N.J.A.C. 14:3-10.2, which defines the term "TRIP area", is proposed for readoption without change.

Existing N.J.A.C. 14:3-10.3, which sets forth the types of investments that are eligible for coverage under a TRIP, is proposed for readoption without change.

Existing N.J.A.C. 14:3-10.4, which sets forth the process for initial Board approval of a TRIP, is proposed for readoption without change.

Existing N.J.A.C. 14:3-10.5 requires submittal of an annual adjustment petition to the Board to check on construction and charges under the TRIP for each year, and to determine whether the TRIP should be approved for an additional year. The section is proposed for readoption without change.

Existing N.J.A.C. 14:3-10.6, which provides for termination of a TRIP based on certain triggers or at its completion, is proposed for readoption without change.

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N.J.A.C. 14:3-10.7, which sets forth the method of calculating the TRIP charge, is proposed for readoption without change, except for the deletion of a parenthetical example from (e)6i.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. UTILITY MANAGEMENT AUDITS

Existing N.J.A.C. 14:3-12.1, which sets forth the applicability of the subchapter, is proposed to be repealed and replaced with a provision specifying that the subchapter applies to all regulated utilities. The statutory provision cited in the existing rule covers audits of electric and gas utilities. However, the rules also govern audits of other utilities, which the Board has statutory authority to audit under its general supervisory powers at N.J.S.A. 48:2-16.

Existing N.J.A.C. 14:3-12.2, which provides for the Board to order an audit, is proposed for readoption with the addition of proposed new N.J.A.C. 14:3-12.2(b) and (c), which include basic authorizing provisions for management audits, relocated from existing N.J.A.C. 14:3-12.3(a).

Existing N.J.A.C. 14:3-12.3, which addresses the selection of the auditor, is proposed for deletion, because the selection of auditors is now performed through the Department of Treasury, utilizing Treasury procedures. Basic provisions authorizing audits, at existing N.J.A.C. 14:3-12.3(a) and (a)5, are relocated to N.J.A.C. 14:3-12.2.

Existing N.J.A.C. 14:3-12.4, which allows for utility review and comment on audit results, is proposed for readoption without change, except for recodification as N.J.A.C. 14:3-12.3.

Existing N.J.A.C. 14:3-12.5, which addresses the implementation of audit results, is proposed for readoption without change, except for recodification as N.J.A.C. 14:3-12.4.

SUBCHAPTER 13. INTEREST ON DEFERRED BALANCES UNDER ADJUSTMENT CLAUSES

Existing N.J.A.C. 14:3-13.1, which sets forth the scope of the subchapter, is proposed for readoption with minor clarifying amendments that do not change its meaning. In addition, the scope of the subchapter is narrowed to exclude levelized energy adjustment clauses for electric utilities. Due to the institution of the BGS auction, over-recovered balances by electric utilities are significantly smaller than they were in the past. Therefore, the interest on these balances can be addressed in the BGS reconciliation charge filings made by the electric utilities throughout the year. The section is also amended to refer to periodic BGSS pricing clauses, which have replaced levelized gas adjustment clauses. Proposed new (b) and (c) specify when gas and water utilities must submit interest calculations.

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Existing N.J.A.C. 14:3-13.2, which includes definitions for the subchapter, is proposed for readoption with several modifications. Definitions for “base cost of energy,” “base cost of gas,” “deferred accounting,” “deferred balance,” “levelized energy adjustment clause” and “levelized gas adjustment clause” are proposed for deletion because they are no longer used in the subchapter due to changes in Board terminology. The definition of “applicable period” is moved into proposed N.J.A.C. 14:3-13.3. New definitions are proposed for “over/under-recovered gas cost balance,” “periodic Basic Gas Supply Service charge,” “periodic BGSS customer” and “periodic BGSS pricing clause.”

The first portion of existing N.J.A.C. 14:3-13.3 describes the method for calculating the interest rate to be used in relation to over recoveries under adjustment clauses. This substance is found in proposed N.J.A.C. 14:3-13.3(c)1. The remainder of existing N.J.A.C. 14:3-13.3, and existing 3.4, which describe the method for applying the interest rate to determine the amount of interest owed to customers, are proposed for deletion, and are replaced with reorganized and clarified provisions in proposed new N.J.A.C. 14:3-13.3. Proposed new N.J.A.C. 14:3-3.3(a) contains proposed new language containing basic explanatory material regarding the interest calculation. Finally, cross references are added to provisions in the Board’s water rules that describe how the amount of over recovery is determined.

The substance of existing N.J.A.C. 14:3-13.5 which requires certain tariff language, is proposed for deletion, since the rules take precedence over tariffs.

Social Impact

The proposed readoption of the Board’s rules for all utilities, N.J.A.C. 14:3, will have a beneficial social impact because it will continue and improve basic requirements that ensure that New Jersey utility consumers receive safe, adequate, and proper service at reasonable rates. Many of the changes proposed reorganize and clarify the rules’ requirements, enabling utilities to understand and comply with the rules more easily, and enabling the public to more easily monitor utility compliance with the rules. Examples of such changes are the addition of a section addressing applicability and scope of the chapter, the relocation of provisions governing tariffs from chapter 1 to chapter 3, and the consolidation of all provisions addressing discontinuance of service in one subchapter. The primary thrust of most of the proposed amendments is to ensure adequate customer service and consumer protection. Examples of these are proposed amendments to provisions addressing service call scheduling, amendments to the temperature thresholds for the Winter Termination program to provide additional protection from utility shutoffs during hot and cold weather, the expansion of provisions for testing and certification of customer meters and the clarification of provisions for bill adjustments based on meter errors in order to encourage utilities to provide accurate bills. Amendments to subchapter 2 clarify the responsibility for construction and maintenance of extensions so as to reduce confusion and conflict between utilities and applicants for extensions. Other amendments will protect public safety. Examples are proposed amendments that increase or shorten deadlines for utility reporting of accidents, new provisions requiring reporting of suspicious

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acts, and provisions requiring that only qualified personnel work on utility facilities. Proposed deletion of provisions regarding extensions of cable television service will ensure that the rules are consistent with recent statutory amendments. The amendments in this proposed readoption will result in a clearer rule that will be more accessible to the public, improve consumer protection and increase public safety.

Economic Impact

The proposed readoption of chapter 3 is not likely to have a significant economic impact, in that it continues existing requirements that ensure that public utilities provide safe, adequate and proper service at a reasonable rate. Utilities have, of necessity, been incurring expenses in complying with these rules and will do so in the future. These expenses include, but are not limited to, costs for repair, maintenance, replacement, testing, and inspection of plant; hiring and training of employees; leasing and purchase of offices and facilities; providing customer service; composing, maintaining and submitting records; and administrative costs. Proposed provisions tightening reporting requirements and increasing consumer protections and public safety will likely result in limited increases in utilities' costs. Any utility costs incurred in complying with this chapter, if determined to be reasonable, are recognized by the Board for ratemaking treatment and the utility will therefore recoup these costs through customer charges. The Board believes that the obligations imposed by the rules are reasonable and necessary to ensure that utilities continue to provide safe, adequate and proper service, both on near-term and long-term bases. While the Board may incur some costs in monitoring compliance with the rules, the rules have no adverse economic impact on the Board. Finally, the reorganization and clarification of the rules will provide a minor economic benefit to utilities and customers by increasing predictability, reducing confusion, and minimizing time spent interpreting the rules.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The rule proposed for readoption are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for the proposed readoption of these subchapters.

Jobs Impact

The Board does not anticipate that the proposed readoption of chapter 3 will have an impact on jobs in New Jersey. The proposal will continue existing programs which require

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utilities to meet minimum standards for service, billing, recordkeeping and reporting, extensions, and audits. While a public utility may need staff to ensure compliance with the rules, the rules are necessary to ensure proper utility service to customers, and any staff needed will already be in place as the rules have been in effect for some time.

Agriculture Industry Impact

The Board does not expect the proposed readoption of chapter 3 to have an impact on the agriculture industry in New Jersey, except by ensuring that public utilities continue to provide safe, adequate and proper service. The rules apply statewide and not expected to affect agriculture any differently than other energy consumers.

Regulatory Flexibility Analysis

The proposed readoption of chapter 3 will impose some recordkeeping, reporting or other compliance requirements on small businesses. A "small business," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. None of the electric utilities or gas utilities regulated by the rules are small businesses. Approximately 44 of the water and wastewater utilities governed by the rules are small businesses. Some telephone utilities are small businesses, but it is impossible to accurately estimate their number, as companies enter and exit the telecommunications market without notice to the Board.

Subchapter 1 imposes requirements for the filing of tariffs upon utilities, including requirements to ensure that the tariffs contain comprehensive information on all of the utilities' rates and services. These requirements are necessary to enable the Board and the public to understand and evaluate utility performance. Therefore, an exception for small businesses would not be appropriate. Subchapter 2, Plant, imposes certain standards upon utilities for the safe and proper construction and maintenance of utility plant and facilities. These requirements ensure a minimum level of safety, and therefore no exemption has been provided for small businesses. Subchapters 3 and 3A, which address customer service, interruptions of service, and discontinuance and restoration of service, impose many compliance requirements on utilities, all of which are basic and necessary consumer protection and customer service requirements. These requirements include the maintenance and return of deposits, the maintenance of records of customer accounts, the form of bills, the transmission of discontinuance notices, the notification to municipalities of the discontinuance of electric and gas service, and the reporting of same to the Board. Due to the nature and necessity of utility service, no differentiation based on business size has been provided.

Subchapter 4 imposes requirements related to the inspection and testing of meters to ensure accuracy. A small business exemption is provided at N.J.A.C. 14:3-4.8, which requires quarterly reports from utilities with 500 or more meters, and annual reports from utilities with fewer than 500 meters. No other small business exception is included because

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of the importance of accuracy in measuring utility service.

Subchapters 5 and 6 require utilities to provide contact information to the Board and customers, to be available for emergencies and informational inquiries, to keep certain records, and to provide periodic reports to the Board. These requirements are absolutely fundamental to the Board's ability to monitor utility operations to ensure safety, consumer protection, and compliance with Board rules and orders. Accordingly, the Board does not consider it appropriate to differentiate between small and large businesses in these rules. However, since the volume of records involved varies proportionately with the size of the utility, the cost to small businesses to comply with these subchapters will be proportionately less than that for large utilities.

Subchapter 7 sets forth requirements for billing format, contents and practices, including requirements relating to deferred payment arrangements and diversions of service. The Board has weighed the impact of subchapter 7 on small businesses and has concluded that the need to provide safe, adequate and proper service outweighs any burden imposed by the requirements. Therefore, no small business exemption is provided. Subchapter 8, extensions to provide regulated services, imposes a few minor recordkeeping and reporting requirements on utilities, including providing information regarding applications for extensions of service, and information regarding the designation or non-designation of areas for growth. The requirements are not onerous, and providing an exception for small businesses would defeat the purpose of the provisions, which is to ensure that the cost of infrastructure placed in areas not designated for growth is borne by the applicant for the service supplied by the infrastructure.

Subchapter 10 establishes a voluntary program for infrastructure development in areas designated for growth. Therefore, if a small business wishes to avoid any compliance requirements in subchapter 10, the business may refrain from participating in the program. Subchapter 12 does not impose recordkeeping, reporting or compliance requirements. Subchapter 13 requires utilities that have adjustment clauses to calculate and pay interest on overrecoveries. These requirements are basic to ensuring protection of ratepayers from overcharges due to fluctuations in energy prices and thus no exception for small businesses is included.

While chapter 3 does impose some recordkeeping, reporting and compliance requirements, many of the requirements also benefit the utilities, in that they set uniform standards to which all utilities must adhere, thus providing clear guidance for the treatment of customers, and protecting individual utility companies from undercutting by others with lower standards. Compliance with these requirements should not require utilities to employ professional services, as the requirements can be met utilizing personnel necessary for the normal conduct of their business.

Smart Growth Impact

The Board anticipates that the proposed readoption with amendments will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." These rules apply uniformly Statewide and the Board does not expect that they will affect the location of future development. Therefore, the proposed readoption with amendments will not impact smart growth or the State Plan.

Full text of the proposed readoption with amendments follows (additions indicated in boldface thus; deletions indicated with brackets [thus]:

CHAPTER 3 ALL UTILITIES

SUBCHAPTER 1. DEFINITIONS AND 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 [indicated] 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 [regulated entity] public utility as the person responsible for payment of the [regulated entity] public utility bill. A customer may or may not be an end user, as defined herein.

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"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 herein.

"Gas public utility" means a public utility, as defined herein, that distributes gas to end users.

"Normal business hours" means 9:00 a.m. to 4:00 p.m. weekdays, except for New Jersey State holidays.

"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" or "utility" means an individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof. This term shall include 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.

"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.

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["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.]

"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.

14:3-1.2 Applicability and scope

(a) This chapter applies to all public utilities, as defined at N.J.A.C. 14:3-1.1.

(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.

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. 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. Separate types and classes of service shall be described separately, and rates for each class and/or type of service shall be listed separately; 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:

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1. Exchange rate schedules, which shall include:
 - i. Primary rate schedules;
 - ii. Private branch exchange rate schedules;
 - iii. Miscellaneous rate schedules;
 - iv. Exchange area maps;
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 Board staff to do otherwise.

(e) If a utility enters into a contract or agreement with a particular customer or group of customers, for service at rates different from those provided in the utility's Board-approved tariff, the utility shall file four copies of the contract or agreement, at least thirty days prior to the effective date of the agreement or contract.

(f) Each off-tariff rate agreement filing 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 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 income;
5. The utility's reasons for entering into the contract or agreement; and
6. A complete and detailed list of every way in which the contract or agreement changes or affects the utility's Board-approved tariff.

(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.

(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.

14:3-1.4 Format for submittals

Each utility shall provide all notices, filings, information and reports required under this chapter in the format provided by Board staff and/or posted on the Board's website at

www.bpu.state.nj.us, unless otherwise specifically stated in this chapter. If a utility wishes to submit any notice, information or report required under this chapter in a format other than that provided by Board staff, the utility may request a waiver of the format requirements by submitting a written explanation demonstrating that the required format is infeasible for the utility, based on unique or unusual circumstances that do not affect other utilities.

SUBCHAPTER 2. PLANT

14:3-2.1 Plant construction

(a) The construction and installation of plant and facilities of the utilities [must] shall be in accordance with standard utility practice, shall comply with all applicable requirements of this chapter, and shall be conducted so as to enable the utility to provide safe, adequate and proper service.

(b) Each utility shall [make reasonable efforts to] protect [the public and] its property from injury, vandalism or damage of any kind, and shall exercise due care to reduce hazards to which employees, customers, and the general public may be subjected by [reason of its] the utility's equipment and facilities.

[(b) The various] (c) All public utilities [should] shall cooperate to the greatest extent practicable to reduce or eliminate interference among the different utility systems.

(d) When an extension, as defined at N.J.A.C. 14:3-8.2, is constructed underground, the responsibility for construction of the portion of the extension located on the property to be served shall be as follows:

1. For an extension of gas service, the utility shall construct the entire extension;
2. For an extension of water or wastewater treatment service, the applicant for the extension shall construct the entire extension, except for the water meter and any of the following that are located on the right-of-way of the property:
 - i. The shutoff valve;
 - ii. A fire hydrant; and/or
 - iii. Any piping, branches or other infrastructure that will serve properties other than the property of the applicant for an extension;
3. For an extension of telecommunications service, either the applicant or the utility shall construct the extension, at the applicant's discretion; and
4. For an extension of electric service, either the applicant or the utility shall construct the extension, at the applicant's discretion.

(e) If a person other than the utility or its designee constructs an extension in accordance with (d) above, the person shall construct the extension in accordance with the utility's standard specifications.

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(f) Once an underground extension has been constructed, the ownership and maintenance of the portion of the extension that is located on the property to be served shall be as follows:

1. For an extension of gas service, the utility shall own and maintain the entire extension;
2. For an extension of water or wastewater treatment service, the applicant for the extension shall own and maintain the entire extension. The utility shall own and maintain the water meter and any of the following that are located on the right-of-way of the property:
 - i. The shutoff valve;
 - ii. A fire hydrant;
 - iii. Any piping, branches or other infrastructure that will serve structures or properties other than those of the applicant for an extension;
3. For an extension of telecommunications service, the utility shall own and maintain the extension up to the demarcation point;
4. For an extension of electric service to a one, two, or three family residence, the utility shall own and maintain the extension; and
5. For an extension of electric service to a structure not covered at (f)4 above, the extension shall be owned and maintained by the applicant for the extension or the property owner, unless the utility and the applicant or property owner make another agreement in writing. The utility shall maintain any such agreement and shall provide the record to Board staff upon request.

14:3-2.3 [Foreign construction] Equipment on utility poles

(a) Each utility owning poles shall [endeavor to prevent non-standard foreign construction on poles owned by it. In other words,] ensure that any equipment or facilities placed on the poles, including any wire serving a fire alarm [and telephone], electric distribution or transmission system, [or] trolley, light rail, telecommunications, or cable television [wires,] system; or any other facilities, private or otherwise, [should be] are located and attached in accordance with standard industry practice.

(b) When existing [construction is] poles or facilities, and/or equipment placed on the pole or facilities, is repaired, replaced or changed, the utility shall ensure that the affected pole or facilities, and all [non-standard construction] equipment or facilities then in place, [shall be made to conform with this rule] comply with the New Jersey Uniform Construction Code, N.J.A.C. 5:23 et seq., and with standard industry practice.

(c) In the event of disagreement [with any] between a utility and a municipality or other utility as to the necessity of [changes or removals under this rule] repair, replacement or modification of a utility pole, facilities or attached equipment, the matter shall be submitted to the Board for determination.

14:3-2.5 Identification of [poles or structures supporting wires; fire hydrants] utility equipment

(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] piece of equipment that it owns, solely or jointly, which is not permanently located at a utility office, maintenance yard, storage facility or similar installation. The utility shall mark the equipment 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 a number or symbol or both by which the location of each [such pole, structure or fire hydrant] piece of equipment may be determined on utility office records. The equipment subject to this subsection shall include but shall not be limited to all poles or structures supporting wires or cables, fire hydrants, aboveground or underground pipes, and other similar equipment. Such markings may be made with paint, brand or with a soft metal plate [and the]. 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 or equipment, the distinguishing mark or number of each utility shall be placed on such structures and equipment, 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) (No change.)

(f) Each [such] utility shall have available to Board staff a statement showing:
1. (No change.)
2. The means of marking employed; and
3. (No change.)

(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)] 27:5-9, Requirements for a permit, and as prescribed in [these rules] this chapter.

14:3-2.8 Construction work near utility facilities

(a) (No change.)

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

(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.]

(d) Each utility shall ensure that only utility employees or other qualified persons perform work on its equipment and facilities, including poles, while these are in use providing service to customers.

SUBCHAPTER 3. SERVICE

14:3-3.1 Duty to furnish service

(a) (No change.)

(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.

14:3-3.2 [Applications] Customer applications for service

(a) (No change.)

[1.] (b) 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.] (c) A utility shall advise a customer of the rate schedule most applicable to that customer and suggest a change in rate schedule, if and when appropriate.

[(b)] (d) When a customer makes application for service to any utility and the service requested is supplied by another utility, the [company] utility 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) (e) [A utility may require] If a utility requires proof of identity with an application for service[. An applicant for service may provide], the utility shall accept any [one] of the following items to establish identity, and may also accept other documents at the utility's discretion:

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

[(e)] (f) [A utility may require] If a utility requires proof of prior address with an application for service[. An applicant for service may provide], the utility shall accept any [one] of the following items to establish prior address, and may also accept other documents at the utility's discretion:

1. - 3. (No change.)
4. A credit card statement; or
- [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
5. [6.] A letter of credit worthiness from a utility.

[(f)] (g) 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] an extension, as defined at N.J.A.C. 14:3-8.2, to the structure where said service shall be received.

(h) A utility shall not require a social security number as a condition of providing service.

14:3-3.3 [Customer] Providing information to customers

(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.

(b) 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] (c) If a customer's service is likely to be affected by peculiar or unusual circumstances [prevail], the public utility shall inform the customer as to [the conditions under which] how the customer can minimize the effect of such circumstances in order to secure sufficient and satisfactory service [may be secured] from [its] the utility's system.

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

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

1. - 3. (No change.)
4. That the information shall be distributed to the public by the following means:
 - i. - ii. (No change.)
 - 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[.] ; and
2. (No change.)

[14:3-3.4 Permits]

(e) The utility[, where necessary, will] shall make application for any street opening permits that are necessary 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.

14:3-3.4 Deposits for service

(a) A utility may require a reasonable deposit as a condition of supplying service, in accordance with this section.

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(b) The amount of any deposit required or increased under this section shall meet all of the following requirements:

1. The deposit shall be reasonably related to the probable charge for service, taking into account the customer's history regarding payment of utility bills;
2. The amount of a deposit shall be calculated by adding:
 - i. The average monthly charge for the service for a twelve-month service period;
 - and
 - ii. One month's average bill; and
3. In determining the average monthly amount of a bill, there shall be excluded from the average bill any amount for which payment is made in advance.

(c) If the customer's actual bills subsequently prove that the deposit is either insufficient or excessive, the utility may change the deposit in accordance with the facts.

(d) A utility may require a customer to furnish a deposit or increase their existing deposit if the customer fails to pay a bill within fifteen days after the due date printed on the bill. The deposit required shall be in an amount sufficient to secure the payment of future bills.

(e) If a utility requires a customer to furnish or increase a deposit under (c) or (d) above, the utility shall bill the customer for the deposit amount. If the customer fails to pay the required deposit amount within fifteen days of the bill, the utility shall not discontinue the customer's service except in accordance with N.J.A.C. 14:3-3A.2.

(f) If a customer's service has been discontinued for nonpayment under N.J.A.C. 14:3-3A.2, and the utility holds a deposit for that customer, the utility may apply the deposit as necessary to liquidate the bill. The utility may also, in accordance with N.J.A.C. 14:3-3A.9(c), require that the customer restore the deposit to its original amount.

(g) If a utility routinely requires a deposit or requires that customers establish a credit record, the utility shall apply the same credit and deposit requirements throughout the utility service area. A utility shall not set different credit or deposit requirements for different municipalities or locations.

(h) When a utility requires a customer deposit for service, the utility shall inform the customer of the interest rate that the utility shall pay on the deposit, determined in accordance with N.J.A.C. 14:3.5.

(i) The utility shall furnish a receipt to each customer that makes a deposit.

(j) If a utility, other than a telephone utility, furnishes unmetered service for which payment is made in advance, the utility may not require other guarantees to secure payment for service.

14:3-3.5 Return of deposits, interest on deposits

- (a) 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. If this review indicates that the customer has established credit satisfactory to the utility, the utility shall refund the customer's deposit.
- (b) Upon closing an account, a utility shall refund to the customer the balance of any deposit remaining after the closing bill for service has been settled.
- (c) If the utility refunds a deposit in cash, the utility may require the customer to surrender the receipt for the deposit, or may require proof of identity.
- (d) A utility shall pay the customer simple interest on any deposit at a rate equal to the average yields on new six month Treasury Bills for the twelve-month period ending each September 30. Said rate shall become effective on January 1 of the year following the twelve-month period.
- (e) The Board shall perform an annual calculation to determine the applicable interest rate for each year and shall notify the affected public utilities of the rate. The Board shall provide this rate to each utility, which shall post the rate on the utility's website.
- (f) If a public utility holds a customer deposit during time periods during which different interest rates apply under (d) above, the utility shall apportion the interest on the deposit to reflect the amount of time the deposit was held under each rate.
- (g) Interest payments on customer deposits held to secure residential accounts shall be made to the customer at least once during each twelve-month period in which a deposit is held.
- (h) When a utility refunds a deposit or pays a customer interest on a deposit under this section, the utility shall offer the customer the option of a credit to the customer's account or a separate check. In either case, the utility shall provide the full refund or payment within one billing period after the review required under (a) above is completed (in the case of a deposit under (a) above) or after the interest payment is due under (g) above, as applicable, unless other reasonable arrangements are made between the customer and the utility.

[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.

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(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.]

14:3-3.6 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.

(b) The customer shall obtain, or cause to be obtained at the customer's cost, all permits needed by the utility for access to the utility's facilities, such as municipal permits to work on utility facilities that run under public streets.

(c) Access to the utility's facilities shall not be given except to authorized employees of the utility or duly authorized governmental officials.

14:3-3.7 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.

(b) This section applies to service interruptions for any reason, including but not limited to an act of God, weather condition, natural disaster, attack, catastrophic occurrence, accident, strike, legal process, or governmental interference. However, this section shall not apply to service interruptions made in accordance with provisions in interruptible service contracts between the utility and its customers.

(c) Telecommunications utilities shall not be subject to (d) through (f) below, but shall instead comply with the service interruption provisions in the Board's telephone rules at N.J.A.C. 14:10-1A.14.

(d) Except for telecommunications utilities, if a service interruption meets one or more of the criteria at 1 through 4 below, the utility shall report the interruption to the Board no later than thirty minutes from the time service has been interrupted for thirty minutes. This subsection shall apply if service is interrupted for thirty minutes to one or more of the following:

1. A group of ten thousand or more customers;
2. A hospital, as defined at N.J.A.C 8:43G-1.2;

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3. An airport that is designated as a class I, II, or IV airport under 14 CFR Part 139, and that holds Airport Operating Certification from the Federal Aviation Administration under 14 CFR Part 139; and/or
4. A major transportation facility, or location that supplies power to such a facility, including but not limited to railroad, autobus and subway facilities such as Newark Pennsylvania Station, Secaucus Junction, Hoboken Station and Trenton Train Station.

(e) In addition to the reporting required at (c) above, if a service interruption meets one or more of the following criteria, the utility shall report the interruption to the Board no later than 30 minutes from the time that service has been interrupted for two hours:

1. The service interruption causes the closure of one or more lanes of an interstate highway, State highway, the New Jersey Turnpike, the Atlantic City Expressway or the Garden State Parkway;
2. Service is interrupted for two hours or more to any of the critical customers listed in (f) below;
3. Gas service is interrupted for two hours or more to 100 customers or more; and/or
4. Service is interrupted for two hours or more to a sufficient number of non-gas customers to meet the applicable threshold in Table A below:

Table A

Threshold For Reporting A Non-Gas Service Interruption

<u>Number of Customers The Utility Serves</u>	<u>Threshold: Number of Customers Interrupted For 2 Hours Or More</u>
<u>500 or fewer</u>	<u>20</u>
<u>501 to 1,000</u>	<u>50</u>
<u>1,001 to 10,000</u>	<u>100</u>
<u>10,001 to 100,000</u>	<u>200</u>
<u>100,001 to 500,000</u>	<u>1,000</u>
<u>500,001 to 1,000,000</u>	<u>2,000</u>
<u>1,000,001 or more</u>	<u>5,000</u>

(f) The following are critical customers subject to (e)2 above:

1. A school facility, including a regionally accredited college or university, a public or non-public school, a facility that provides vocational-technical education, or a facility subject to the jurisdiction of a district board of education, as defined in N.J.A.C. 6A:9-2.1;

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2. A State correctional facility designated to house inmates serving prison sentences; and
3. A large public institution, apartment complex, major commercial customer or large industrial customer, for which the interruption of service would significantly affect commerce or community functioning.

(g) The utility shall promptly follow up the reporting required in (c) and/or (d) above with a detailed written report that includes all pertinent facts, including the cause of the interruption, the number and locations of customers affected, the duration of the interruption, utility actions to correct the interruption and to minimize and/or remedy its effects.

(h) 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.

(i) Whenever the New Jersey Department of Transportation serves a public utility with a notice prohibiting street openings pursuant to N.J.S.A. 27:7-26, or the utility receives an Executive Department directive, or is otherwise put upon notice of any facts, actual or threatened, which may adversely affect its ability to render safe, adequate and proper service, the public utility shall forthwith report the pertinent facts to the Board, in writing.

(j) A utility shall perform all reporting required under this section using the forms and procedures prescribed by Board staff, which shall be posted on the Board's website at <http://www.state.nj.us/bpu/home/reliability.shtml>.

(k) Each utility shall keep a record of each reported interruption of service for a period of one year after the interruption ends.

(l) 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.

14:3-3.8 Service call scheduling

(a) When a service call is scheduled for a residential customer, the utility shall inform the customer, upon request, of either a specified time or, at a maximum, a four-hour time block during normal business hours, during which the service call will occur. The utility may schedule service calls outside of normal business hours for the convenience of the customer.

(b) If the utility is unable to ensure that the service call will occur within the four hour period provided under (a) above, the utility shall inform the customer at the earliest possible time, and in no case later than the close of business on the business day prior to the scheduled appointment. A utility shall not cancel an appointment with a customer after the close of

business on the business day prior to the scheduled appointment, unless the utility can show good cause.

(c) In addition to complying with (b) above, the utility shall reschedule the service call within twenty four hours, unless good cause is shown.

(d) For the purposes of this section, good cause shall include, but shall 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 labor actions which prevent the utility from meeting service call schedules.

SUBCHAPTER 3A. Discontinuance and restoration of service

14:3-3A.1 [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 any of the following reasons:

1. (No change.)
2. For compliance in good faith with any governmental order or directive [notwithstanding], regardless of whether 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] 3. For nonpayment of a valid bill due for service furnished at a present or previous location, in accordance with N.J.A.C. 14:3-3A.2 [. 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]; or
4. For any of the following acts or omissions on the part of the customer:
 - i. Refusal of reasonable access to the customer's premises in accordance with N.J.A.C. 14:3-3.6;
 - ii. - ix. (No change.) Tampering with any facility of the utility;
 - x. Where the condition of the customer's installation presents a hazard to life or property; or
 - 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.]

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(b) A customer wishing to discontinue service [must] shall give notice to [that effect] the utility. 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] discontinuance of service on Fridays, Saturdays, and Sundays or on the day before a holiday or on a holiday absent such emergency.

[Except for the provisions of N.J.A.C. 14:3-7.17(b) and (c) related to the termination of basic and nonbasic residential local telephone services, respectively, no utility shall discontinue service unless the customer's arrearage is more than \$50.00 or the account is more than three months in arrears.]

(d) When a utility suspends, curtails, or discontinues service for any reason other than nonpayment, the utility shall provide reasonable notice to the customer, to the extent reasonably possible.

(e) When a utility discontinues service for nonpayment, the utility shall provide notice to the customer in accordance with N.J.A.C. 14:3-3A.3.

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:

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 shall not discontinue service for nonpayment for any reason other than those listed at (a)1 and 2 above. 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) [No] A utility [shall terminate] may discontinue a customer's service for nonpayment of bills rendered[, unless] 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. [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 set forth in the notice of discontinuance issued under N.J.A.C. 14:3A.3;
3. [2.] It has confirmed on the day on which [termination] service may [occur] be discontinued, that payment has not been posted to the customer's account at the opening of business on that day; and
4. [3. Before termination] 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;
5. [4.] If a residential customer offers payment of the full amount or a reasonable portion of the amount due at the time of [termination] discontinuance, 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[;].

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

1. [5.] Whenever the high temperature is forecast to be [32] 40 degrees Fahrenheit or below during the next 24 hours, electric and gas utilities shall not, within any portion of their service territories, disconnect residential service for nonpayment [of a delinquent account], failure to pay a cash security deposit or guarantee, or failure to comply with the terms of a deferred payment plan. [The utilities may rely on forecasts obtained from national weather stations covering their utility facilities, including the Newark Weather Station and the Atlantic City Airport Weather Station; and.] 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. [6.] If a customer is eligible for the Winter Termination Program under N.J.A.C. 14:3-[7.12A] 3A.5, an electric or gas public utility shall not discontinue service to the customer from November 15 through April 1 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] 90 degrees Fahrenheit or more, or the National Weather Service heat index is forecast to be 90 degrees or more, at any time during the following 48 hours, an electric utility shall not discontinue residential service to a customer for reasons of nonpayment [of a delinquent account], failure to pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement [. The utilities shall rely on forecasts obtained from national weather stations covering their utility facilities, including the Newark Weather

- Station and the Atlantic City Airport Weather Station. If a utility's service territory is covered by more than one national weather station, and these weather stations forecast different high temperatures, the utility shall rely on the highest forecast.];
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 requests that the Board investigate the disputed charge, in accordance with N.J.A.C. 14:3-7.6(a). In such a case the utility shall notify the customer that unless steps are taken within five days after the customer requested a Board investigation to invoke formal or informal Board action within five days, service will be discontinued for nonpayment.

(f) For the purposes of this subchapter, "heat index" means the temperature that a human body feels when hot air and high humidity are combined. This measurement combines the effects on the body of both air temperature and relative humidity, to determine an apparent temperature as sensed by the body. Thus, for a particular combination of air temperature and humidity, the heat index identifies a corresponding temperature, which represents the way that hot and humid conditions actually feel to a human body. For more information regarding the heat index, see <http://www.crh.noaa.gov/pub/heat.php>.

(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.

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

[(d)] (i) Discontinuance of residential service for nonpayment is prohibited for up to sixty 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 sixty-day prohibition on discontinuance:

1. [and the] The utility may require the customer [gives] to provide reasonable proof of inability to pay[. Discontinuance shall be prohibited for a period of up to two months when a customer submits a] ;
2. The utility may require the customer to submit a written physician's statement[, in writing,] to the utility [as to], stating the existence of the emergency, its nature and probable duration, and that [termination] discontinuance of service will aggravate the medical emergency[.] ;
3. [Recertification] The utility may require submittal of a recertification by the physician as to [a continuance] the continuing nature of the medical emergency [shall be submitted to the utility] after 30 days[.However, at];

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4. At the end of such period of emergency, the customer shall [still] remain liable for payment [of] for all service(s) rendered, subject to [the provisions of] N.J.A.C. 14:3-7.13.] 7.6; and
5. [During] If, during the period of medical emergency, the customer [shall pay] incurs telephone [tolls which are] 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) [1.] The Board may extend the 60-day period in (i) above for good cause. [Such] The customer shall request such an extension [shall be requested] from Board staff in writing [by the customer and] . The request shall be accompanied by [a current] 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.

[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.]

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 for nonpayment shall not be sent to the customer until fifteen 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) below. 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 ten days written notice of the utility's intention to discontinue service. 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.

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(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.

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 sixty-five 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.

(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 fourteen 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;

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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 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.

(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:

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1. At least thirty 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

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 April 1, 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

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payment of up to twenty five 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 shall such required payment exceed twenty five percent of the outstanding balance. The utility shall refer to the Board for resolution, all disputes regarding the appropriate amount of down payments.

(c) All residential electric or gas customers who are eligible for and seek the protection of the Winter Termination Program shall enroll in a budget billing plan on an annual basis.

(d) All residential electric or gas customers who are eligible for and 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 shall be equal to the amount that the customer would be required to pay under a budget billing plan, except that the utility shall accept a lesser amount from those customers who do not have the ability to pay.

(e) 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 utility shall refer said dispute to the Board for a determination. In addition, the 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 utility shall not unilaterally discontinue service during the heating season.

(f) If a customer receives energy related financial assistance, such as Home Energy Assistance Program (HEAP) heating benefits, the customer shall forward all of the benefits to their electric or gas utility, if either utility is their major heat supplier.

(g) During the heating season, an electric or gas utility 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.

(h) An electric or gas utility may terminate service to a customer who is eligible for the Winter Termination program in accordance with (i) and (j) below 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.

(i) No discontinuance shall occur under (h) above 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 utility facilities:

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1. The utility shall notify the Board of all pertinent facts related to the alleged tampering;
2. 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 for the tampering;
3. 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; and
4. Any relief requested under N.J.A.C. 14:3-3A.2(h) regarding medical emergencies shall be reviewed on a case-by-case basis.

(j) 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 twenty-five 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.

14:3-[7.14] 3A.6 Discontinuance of service to tenants

(a) Electric, gas, water and wastewater public utilities shall make every reasonable attempt to determine when a landlord-tenant relationship exists at premises being serviced. If such a relationship is known to exist, and if the tenants are not the customers of record but are end-users, as these terms are defined at N.J.A.C. 14:3-1.1, discontinuance of service is prohibited unless the utility has, notwithstanding the time periods in N.J.A.C. 14:3-3A.5, given a fifteen-day written notice to the owner of the premises or to the customer of record to whom the last preceding bill was rendered. Further, the utilities shall use their best efforts to determine the names and addresses of each tenant, in order to provide such notice, for example, through mailings to landlords requesting a list of tenants. The utility shall use its best efforts to provide copies of the discontinuance notice to all tenants. In addition, the utility shall provide the tenant(s) with a fifteen-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.

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(b) - (e) (No change.)

[14:3-7.15] 14:3-3A.7 Notification to municipalities of discontinuance of residential gas or electric service [to residential customer]

(a) (No change.)

(b) The list referred to in (a) above shall contain all of the following information, as applicable:

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)] 14:3-3A.1(c), public utilities [may] shall 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] If 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] is not [be] required to send a list or to 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[.]; and
7. (No change).

(c) The list referred to in [subsection] (a) [of this section] above 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] section in the preceding calendar year; and

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2. (No change.)

(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] that requested the list [referred to] described in (a) above and those [which] that 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[.]; and
3. Any additional information [which] that the Board in its discretion may require in writing or the public utility may wish to submit.

14:3-[7.17] 3A.8 [Termination] Discontinuance of a residential customer's telephone service

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this section can be found at N.J.A.C. 14:3-1.1:

...

"Basic residential local telephone service" or "[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.] ID, 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.]

(b) A telephone utility shall comply with all requirements for discontinuance of service in this subchapter.

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[2.] (c) When a residential customer's BRLTS charges exceed \$30.00, a [BRLTS provider] telephone utility may disconnect the service no sooner than 10 days after written notice to the customer of the [provider's] utility'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)] (h) below.

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

(d) A telephone utility may terminate BRLTS only for nonpayment of basic local telephone service charges, in accordance with N.J.A.C. 14:3-3A.2(b).

[1.] (e) When a residential customer's charges for nonbasic telephone services are more than \$20.00 in arrears, a [provider of BRLTS] telephone utility 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)] (f) 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)] (f) A telephone utility may offer customers a residential credit limit option [may be offered to customers,] as follows:

1. A [provider of] telephone utility that provides BRLTS and/or nonbasic residential telephone service may offer residential customers a credit limit option for an amount of not less than \$200.00, as follows:

- i. This option pertains exclusively to services, other than BRLTS[.], provided by telephone utilities;
- ii. 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.];
- iii. Every [provider of] utility that provides basic or nonbasic residential local telephone service shall offer a deferred payment arrangement pursuant to

[(e) below] N.J.A.C. 14:3-7.7 to any customer that exceeds the customer's credit limit [option. In the event that];

- iv. If the credit limit is reached for a customer [selecting] that has selected the credit limit option, the [provider of service] utility may block or otherwise restrict the customer's access [by the customer] to services other than BRLTS[.In such event, and notwithstanding other provisions of the tariff,]; and
- v. If the utility blocks or restricts non-BRLTS service under (f)1iv above, no additional tariff charge for blocking or service restoration shall apply, nor shall the telephone utility send a separate notice of discontinuance [be sent by the telephone service provider.] to the customer, notwithstanding other provisions of the utility's tariff; and

- 2. Every [provider of] telephone utility that provides basic or nonbasic residential local telephone service, upon customer selection of the credit limit option, shall confirm [said] the selection with the customer in writing, which confirmation shall include, but not be limited to, the following information:
 - i. (No change.)
 - ii. [That] A statement 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], to cancel the customer's credit limit option selection, or to [obtain] determine 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.] (g) Each telephone utility shall provide for deferred payment arrangements in accordance with N.J.A.C. 14:3-7.7. A deferred payment arrangement shall be made available to all basic local residential customers, including those who select the credit limit option [referenced] in [(d)] (f) above.

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

[1.] (h) Upon receipt of a partial payment from a [telephone service] residential telephone service customer, [the billing provider] a telephone utility shall apply the payment as follows:

- [i.] 1. The partial payment shall first be applied to BRLTS[.];
- [ii.] 2. Upon satisfaction of [the] BRLTS 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[.]; and
- [iii.] 3. In the event a customer fails to pay a bill for BRLTS charges, and [a customer] notifies the [BRLTS provider] utility that slamming, as defined at N.J.A.C. 14:10-1.2 [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]7.6, and the [BRLTS provider] utility shall neither apply residual or partial payments to the customer's charges for the slammed service, nor discontinue the customer's allegedly slammed service because of nonpayment.

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

[3.] Notice of the partial payment allocation rules in [(f)1] (h) above shall be printed in the Customer Guide Section of the telephone utility's directory [of the provider of BRLTS].

[14:3-3.7] 14:3-3A.9 Basis for restoration

(a) Service shall be restored within 12 hours upon proper application when:

1. All of the conditions under which such service was discontinued are corrected[.]; and
2. [upon the payment] Payment of all [proper] charges due [from the customer provided in the tariff of the utility when the payment] is received at the utility, or at an authorized payment center and the utility has received notice of the payment[.].

(b) [or if the Board so directs when] Any other provision of this subchapter notwithstanding, the utility shall restore service within twelve hours if there is a complaint involving such matters [is] pending before [it] the Board, and Board staff so directs the utility.

(c) If a utility discontinues service to a customer for nonpayment, and the customer has met all requirements in this section for restoration of service, the utility may require a deposit,

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but shall not require the deposit prior to service restoration. Instead, the utility shall bill the customer for the deposit, and shall allow the customer at least fifteen days after the billing for payment of the deposit, or shall make other reasonable payment arrangements with the customer.

(d) The amount of a deposit required for restoration of service shall be determined in accordance with N.J.A.C. 14:3-4.

[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.

Table A

Threshold For Immediate Reporting Of Service Interruption

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Customers Served 500 or less 20501 to 1,000501,001 to 10,000 10010,001 to 100,000200100,001 to 500,0001,000500,001 to 1,000,0002,0001,000,001 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.

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.]

SUBCHAPTER 4. METERS

14:3-4.1 Ownership of meters and equipment

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

[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.

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(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.]

(b) The determination of whether the customer or the utility bears the cost of meters, equipment and service appliances provided by the utility under (a) above shall be governed by the Board's main extension rules at N.J.A.C. 14:3-8.

(c) Regardless of who provides or pays for a meter, service appliance, hardware or other equipment, the determination of whether the customer or the utility owns and maintains the equipment after its installation shall be governed by N.J.A.C. 14:3-8.

14:3-4.2 Location of meters

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

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

14:3-4.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1.

"Bell prover" means a device that measures the volume of a gas using a calibrated bell placed in a bath of oil or water.

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“Meter testing equipment” means equipment and facilities used to test the accuracy of meters that measure a utility customer’s utility usage. This term includes equipment and facilities used to test customer meters directly, as well as equipment and facilities used to test equipment that is then used to test customer meters.

“NJ Weights and Measures” means the Office of Weights and Measures in the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety.

14:3-4.4 [Equipment for] Testing of utility meter testing equipment

[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.]

(a) A utility shall ensure that its meter testing equipment is tested and sealed in accordance with this section at each of the following events or time intervals:

1. Each time the equipment is moved;
2. Each time the security seal on the equipment is broken;
3. Each time the equipment is cleaned, handled or maintained in any way that could affect its accuracy;
4. At the following time intervals:
 - i. For all meter testing equipment except bell provers used for ensuring accuracy of gas meters, every twelve months; and
 - ii. For bell provers, every five years.

(b) The certification required by this section shall be performed by Weights and Measures, unless both of the following requirements are met:

1. The certification is performed by a laboratory approved and recognized by the National Institute of Standards and Technology (NIST) with testing equipment traceable to NIST; and
2. Prior to utilizing the equipment for compliance with this subchapter, the utility has submitted to the Board a written approval, issued by the Superintendent of NJ Weights and Measures, accepting the laboratory that performed the certification for purposes of compliance with this subchapter.

(c) The cost of complying with this section shall be borne by the utility.

(d) A utility shall make its meter testing equipment available at all reasonable times for inspection and/or use by Board staff or its designees.

14:3-4.5 [Tests by utility on] Meter tests at a customer’s request

(a) - (b) (No change.)

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(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) (No change.)

[14:3-4.6 Tests by Board on request]

(e) Upon application by any customer to the Board, a Board inspector shall 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 for the test, and [upon notice to] Board staff shall notify the customer and the utility as to the time and place of such test.

(f) [For such] The Board shall charge a fee of five dollars for a meter test [a fee, in accordance with N.J.S.A. 48:2-56, shall be paid by the customer] , payable at the time application is made for the test. This fee is to be retained by the Board 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 and one half percent, the utility shall reimburse the customer for the test fee paid.

[14:3-4.7] 14:3-4.6 Adjustment of charges for meter error

(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:] this section. No adjustment shall be made if a meter is found to be registering less than 100 percent of the service provided, except under (d) below.

(b) [1.] If the date when the meter [had] first [become] became inaccurate [can be definitely ascertained, then] is known, the adjustment shall be [such] determined as follows:

1. Determine the percentage [as] by which the meter [is found to be] was in error at the time of the test, adjusted to 100 percent [on the amount of the bills covering]. This figure is not the amount in excess of the tolerance allowed under (a) above, but is the difference between 100 percent accuracy and the actual accuracy of the meter. For example, if the meter was found to be three percent fast, this percentage is three percent;
2. Determine the total charges for metered service that accrued during the entire period that the meter [had registered inaccurately] was in error; and
3. The amount of the adjustment shall be the percentage determined under (b)1 above, applied to the charges determined under (b)2 above.

(c) [2. In all other cases] If the date when the meter first became inaccurate is not known, the adjustment shall be [such] determined as follows:

1. Determine the percentage [as] by which the meter [found to be in error] was inaccurate at the time of the 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]. This figure is not the amount in excess of the tolerance allowed under (a) above, but is the difference between 100 percent accuracy and the actual accuracy of the meter. For example, if the meter was found to be three percent fast, this percentage is three percent;
2. Determine the applicable time period as follows:
 - i. Determine the time between the test that found the meter inaccuracy and the most recent previous test of the meter. This time period may be longer than the time the meter has served the existing customer;
 - ii. Divide the time determined under (c)2i above in half;
 - iii. If the time determined under (c)2ii above is longer than the time the meter has served the existing customer, the applicable time period is the time the meter has served the existing customer;
 - iv. If the time determined under (c)2iii above is shorter than the time the meter has served the existing customer, the applicable time period is the time determined under (c)2ii above;
3. Determine the total charges that accrued during the applicable time period determined under (c)2 above; and
4. The amount of the adjustment shall be the percentage determined under (c)1 above, applied to the charges determined under (c)3 above.

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

(d) [(c) No adjustment shall be made for] If a meter [that] is found to be registering less than 100 percent of the service provided, the utility shall not adjust the charges retrospectively or require the customer to repay the amount undercharged, except [in the case of meter tampering, non-registering meters or in circumstances in which] if:

1. The meter was tampered with;
2. The meter failed to register at all; or
3. The circumstances are such that the customer should reasonably have known that the bill did not reflect the actual usage.

(e) If a meter is found to be registering less than 100 percent of the service provided because of theft or tampering under (d)1 above, the utility may require immediate payment of the amount the customer was undercharged.

(f) [1.] In cases of a [debit adjustment] charge to a customer's account[, except in cases of theft or tampering] under (d)2 or 3 above, the customer shall be allowed to amortize the payments for a period of time equal to that period of time [in] during which the [charges

were adjusted. Debit adjustments shall be limited to a maximum period of six years] customer was overcharged.

[14:3-4.8] 14:3-4.7 Meter test reports and records

(a) [A report shall be made to the Board giving a summary] Each utility shall provide the Board with summaries 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 on its website at www.bpu.state.nj.us.

(b) If a utility uses a laboratory other than the New Jersey Office of Weights and Measures to certify its meter testing equipment in accordance with N.J.A.C. 14:3-4.4(b), the utility shall include in its annual report a copy of the letter required under N.J.A.C. 14:3-4.4(b)2.

[14:3-4.9 Meter records]

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

1. [Owning utility's number, or manufacturer's name and number] The name of the meter's manufacturer, and the meter's unique ID or serial number, assigned by either the utility or the manufacturer;
2. (No change.)
3. Date and location of each installation, and dates of removal [and test];
4. The accuracy of the meter at each test;
5. A record of the tests of each meter, the date and results of the tests, and any action taken [regarding same.] based on test results; and
6. The results of the last test of the meter, performed after the meter's final use and prior to its retirement from service.

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

[14:3-4.10] 14:3-4.8 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 for less than two years[, in which case] . If the meter has been in use for less than two years, the utility may assess a charge, which shall not exceed the cost of making the replacement[, may be made].

(b) [No charge shall be made] A utility shall not charge a customer for replacing a meter for any of the following reasons:

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1. [test] Testing purposes[, or for replacing a meter];
2. Replacement that is necessitated by a change in service characteristics [which conform to the provisions of these regulations,]; or
3. [for replacing] Replacement of a defective meter, unless the defect is due to the negligence of the customer, in which case a utility may charge [which shall not exceed] the customer for the cost of making the replacement [may be made].

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

SUBCHAPTER 5. [OFFICES] CONTACTING THE UTILITY

14:3-5.1 Location of offices

(a) (No change.)

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

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

[(b)] (d) 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,] any information that the utility is legally required to provide to customers, governmental bodies, other utilities and contractors is available.

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

1. - 3. (No change.)

[(d)] (f) 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)] (e) above, serving the affected area.

[(e)] (g) Each utility shall advise the Board's Division of Customer Assistance at 973-648-4436 not less than 60 days prior to the relocation of any of its customer call center(s) located in New Jersey. If the utility wishes to relocate a call center outside of New Jersey,

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the utility shall first demonstrate to Board staff that all customer service representatives at the new location:

1. Have a thorough understanding of the Board's rules and any other State or Federal rules that are relevant to consumer protection in New Jersey; and
2. Have a thorough understanding of conditions that affect utility service in New Jersey, including but not limited to New Jersey geography, population, ethnic diversity, weather and climate.

14:3-5.2 [Personnel to be contacted] Contacting the utility

(a) Each utility shall make itself accessible to customers and Board staff by maintaining the following:

1. A toll free emergency telephone number at which a customer service representative can be reached quickly at any time of day or night, seven days per week;
2. A toll-free non-emergency telephone number at which a customer service representative can be reached during normal New Jersey business hours;
3. A utility emergency contact, who is available to Board staff by telephone at any time of day or night, seven days per week. The contact information for this person shall be submitted along with the utility's annual financial and operations report under N.J.A.C. 14:3-6.3;
4. A control room emergency contact telephone number, through which Board staff can speak directly with the utility operating personnel who monitor, supervise and control the function of the utility's facilities and personnel on a minute-by-minute basis;
5. A regulatory affairs representative, who is available to Board staff by telephone during normal New Jersey business hours, and who will do the following:
 - i. Assist staff in pursuing investigations on behalf of the Board and/or the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety; and
 - ii. Facilitate the resolution of billing complaints and other problems; and
6. An internet website and e-mail address through which Board staff and customers can contact the utility for non-emergency matters.

(b) An automated telephone answering system shall not, by itself, satisfy the requirements in (a)1 through 4 above.

(c) If a utility uses an automated telephone answering system, the system shall:

1. Inform the caller that it is an automatic answering system; and
2. Provide an escape option to allow a caller to speak to an individual.

[(a)] (d) Each utility shall furnish to the Board and keep current a list of the names, addresses and telephone numbers of [responsible officials to be contacted in connection with routine matters during normal working hours] all of the representatives required under (a)1 through 4 above.

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[(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) [(e) Each public utility shall [establish and] prominently display on all customer bills [after present supplies are exhausted, a current] the emergency telephone number [which may be used by customers and others to report emergencies to the public utility] required under (a)1 above.

[(b) In addition, each] (f) Each public utility shall [maintain a listed] list the emergency telephone number required under (a)1 above in appropriate telephone directories, and file same with police departments, fire departments, municipal clerks and other appropriate governmental agencies.

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

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

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

SUBCHAPTER 6. RECORDS AND REPORTING

14:3-6.1 [Location and examination] General provisions for records and reporting

(a) Each [regulated entity] public utility shall notify the Board, upon request, of the office or offices at which [various] the records required by this chapter are kept. These records shall be open for examination by the Board's inspectors upon reasonable notice during normal business hours.

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(b) Each utility shall keep a record of each customer's account in a manner that will permit computation of the customer's bill for any billing period occurring within six years, except that telephone utilities shall keep customer account records in accordance with the Board's telecommunications rules at N.J.A.C. 14:10. A utility may choose to keep records longer than six years in order to facilitate compliance with the rules regarding adjustment of charges for meter error at N.J.A.C. 14:3-4.3.

(c) The following provisions in this chapter require a utility to report to the Board or another entity:

1. N.J.A.C. 14:3-3.7 requires reporting to the Board regarding service interruptions;
2. N.J.A.C. 14:3-3A.7 requires reporting to the Board regarding notice to municipalities of residential service discontinuances;
3. N.J.A.C. 14:3-4.5 requires reporting to the customer;
4. N.J.A.C. 14:3-4.6 requires reporting to the Board regarding meter testing and results;
5. N.J.A.C. 14:3-6.3 requires reporting to the Board regarding finances and operations;
6. N.J.A.C. 14:3-6.4 and 6.5 require reporting to the Board regarding accidents;
7. N.J.A.C. 14:3-6.6 requires reporting to the Board regarding the telephone systems operated by the utility;
8. N.J.A.C. 14:3-6.7 requires reporting to the Board regarding suspicious actions relating to utility functions and equipment;
9. N.J.A.C. 14:3-7.8 requires reporting to tenant-customers, landlords, beneficiaries and the Board regarding diversions of service; and
10. N.J.A.C. 14:3-10.1 requires reporting to the Board regarding expenditures under a Targeted Revitalization Incentive Program or TRIP.

(d) In accordance with N.J.A.C. 14:3-1.4, all reports and records required under this subchapter shall be provided in the format provided by Board staff or posted on the Board's website at www.bpu.state.nj.us, unless otherwise specifically stated in this chapter, or unless format requirements are waived in accordance with N.J.A.C. 14:3-1.4.

14:3-6.2 Plant and operating records

(a) Each regulated entity shall maintain, readily available to Board staff, 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) (No change.)

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

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

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

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

(g) (f) Each regulated entity shall maintain, for each calendar year, [the following] records[:
1. The] of the amount of trench which it has shared with other regulated entity lines or cables; and].

(g) [2. The] Except for cable television companies, including telecommunications companies that have obtained a system-wide franchise from the Board in accordance with N.J.A.C. 14:18-14, each public utility shall maintain, for each calendar year, records of the number of [subdivisions, the number of] lots, and the number of [buildings or structures, both] residential housing units and nonresidential buildings[,] for which [service was] extensions were provided. The regulated entity shall identify whether these are in designated growth areas or areas not designated for growth.

(h) [Regulated entities] Except for cable television companies, including telecommunications companies that have obtained a system-wide franchise from the Board in accordance with N.J.A.C. 14:18-14, each public utility shall determine whether an application for an extension, as defined [by the rules] at N.J.A.C. 14:3-8.2, will serve an area designated for growth or an area not designated for growth [as these terms are defined at N.J.A.C. 14:3-8.2].

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

14:3-6.3 [Periodic] Financial and operations reports

(a) Every utility shall file with the Board on or before March 31 of each year, or on or before the due date noted on the report form, a summary of its finances and operations for the preceding calendar year. The summary shall be submitted on forms [prescribed and furnished by the Board] available from the Board's Division of Audits at (973) 648-4450

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and shall include the emergency utility contact information required under N.J.A.C. 14:3-5.2(a)3.

(b) In special instances utilities may be required to submit reports quarterly and/or monthly as directed by [the] Board staff. [Other periodic reports shall be filed on or before the due date noted on the report form.]

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

[(c) Any] (d) Each additional [extensions of the date for the filing of the report] thirty-day extension, after an initial extension granted under (c) above, shall require the submission of a separate [requests as provided for in (b)] request under (c) above.

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

14:3-6.4 Accidents - initial reporting

[(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.] (a) Each utility shall notify the Board's Division of Reliability and Security of any reportable accident immediately, and in no event later than two hours after the utility learns of the accident.

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

1. (No change.)
2. Serious disabling or incapacitating injuries to persons, including employees of the [company] utility or its contractors;
3. Damage to the property of the [company] utility, which materially affects its service to the public;
4. - 5. (No change.)

[(c) The Board shall be notified by the speediest, most feasible and practical means of communication available, followed by a detailed written report, as hereinafter set forth, of all reportable accidents which are clearly reportable and those which there is a good reason to believe may result in "reportable accidents" as defined herein. This notice shall in no event be made later than two hours after the utility learns of the accident. In addition, accidents resulting in damage to the property of others amounting to more than \$2,000 but less than \$5,000 must be reported within 48 hours of their occurrence.]

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(d) The initial notice required under (a) above shall include all relevant facts that are known to the utility about the location and cause of the accident, and the extent of damage and/or injuries, if any.

(e) The initial [report] notice required under (a) above shall be followed by additional [reports, transmitted by any feasible means,] notices providing any further information about the accident that the utility obtains. These additional notices shall be provided to Board staff as soon as practicable after the information becomes available, [so as to] by any feasible means, and shall contain all available information that may enable Board staff to [immediately undertake any necessary steps such as site investigation] assist the utility in minimizing the impact of the accident.

(f) If [such] the initial notification required under (a) above is not given [in any case for the reason that] because the utility does not consider the accident [is not considered] reportable, and it subsequently develops that the accident is reportable, the utility [involved] shall notify the [Board] Board's Division of Reliability and Security 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 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. In addition, accidents resulting in damage to the property of others amounting to more than \$2,000 but less than \$5,000 must be reported within 48 hours of their occurrence.

14:3-6.5 (Reserved)]

14:3-6.5 Accidents - follow-up reporting

(a) After the initial accident reporting required under N.J.A.C. 14:3-6.4, a utility shall provide a follow-up report of each reportable accident within fifteen days after the accident.

(b) The follow-up accident report shall include all of the information required by the sample accident reporting form available on the Board's website at <http://www.state.nj.us/bpu/home/reliability.shtml>. The form shall require basic identifying

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and descriptive information concerning the accident, its causes and consequences, the extent of damage and/or injuries, if any, and persons involved; and shall also include corrective measures the utility plans or has taken and preventive measures the utility has taken or will take to avoid similar accidents in the future.

[(f)] (d) If at the time of the submission of the [written] follow-up 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] an amended 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)] (e) 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] admitted in evidence at the discretion of the Board.

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[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:]

14:3-6.6 Notice of significant natural gas events

(a) In addition to all other applicable reporting requirements in this subchapter, each gas utility shall notify the Board's Division of Reliability and Security immediately, and in no event later than two hours after the utility learns of any significant natural gas event, as defined at (c) below, occurring in connection with the operation of the gas utility's plant, property or facilities within the State.

(b) A "significant natural gas event" means any occurrence that

1. Meets the definition of an "incident" under the regulations of the United States Department of Transportation at 49 CFR §191.3, as amended and supplemented, which is incorporated by reference herein; and
2. Is related to equipment owned by, or operations conducted by, a public utility that is subject to this chapter.

(c) The notice required under this section shall include all relevant facts that are known to the utility about the location and cause of the event, and the extent of its impact.

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;
5. Intentional damage to any utility facilities or equipment. This does not include vehicle accidents, automobile collisions with utility poles, damage to underground facilities

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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; and
6. Any other incident that has a potential nexus to terrorism.

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

[14:3-6.6 Telephone] 14:3-6.8 Customer service telephone system [information] report

(a) On January 1 and July 1 of each year, each [electric, gas, local exchange carrier telephone, Class A water and Class A wastewater] 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. - 21. (No change.)

(b) [Each utility shall, within] Within 30 days after making [, inform the Board of] 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 [must] shall ensure that the service [shall inform] informs each customer that they are speaking to an answering service and not to the utility's employees.

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.

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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.

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.

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.

14:3-7.6 Unmetered service

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

14:3-7.7 Information to customers

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

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

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

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 sixty 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 twenty five 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 is 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 type no less than one-half inch in height (36 points).

[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.]

[14:3-7.9] 14:3-7.2 Form of bill for metered service

(a) This section applies only to a utility that provides metered service.

(b) [(a)] Unless a utility has been specifically relieved of so doing by order of the Board, [the] a bill for metered service shall show the following:

1. - 6. (No change.)
7. A distinctive marking to indicate [that] the method used to calculate the bill [is based on an] ; for example, electronic readings, estimated [or averaged use] billing, budget billing, or [on] the index of a remote reading device. In addition, the utility may also provide a web address and telephone number where the customer can obtain a description of the method used;
8. (No change.)
9. For each Class A water utility and each wastewater utility that meets the revenue threshold of a Class A water utility subject to the Board's jurisdiction, sufficient information to reflect the estimated amount of money in that individual bill which is collected for the gross receipts and franchise taxes pursuant to N.J.S.A. 54:30A-54. The following language is suggested as a model statement to be indicated on the bill: "Approximately 13% of \$ of your current period charges reflect the average gross receipts and franchises taxes which are paid to the State of New Jersey and distributed to New Jersey municipalities." ; and
10. For each electric and gas [company subject to the Board's jurisdiction, sufficient information to adequately reflect that the payment of] utility, a statement of all applicable taxes imposed upon and included in the cost of [each kilowatt hour of electricity and therm of gas consumed by an electric and gas company] the energy provided to the customer [pursuant to P.L. 1997, c.162 and other applicable laws of this State]. The following language is suggested as a model statement to be included on the bill: "Under applicable tax law, the State sales and use tax, corporate business tax, and

Transitional Energy Facility Assessment are imposed upon the energy which you have used. To obtain the exact amount of tax included in your billing, please contact the [company] utility at the telephone number listed on your bill."

(c) If for any reason a utility cannot read a customer's meter, the utility may use estimated billing in accordance with (e) below.

(d) If for any reason a utility cannot read a customer's meter, the meter reader shall leave a written notice in a conspicuous location near an entrance to the building. The notice shall:

1. Advise the customer that the customer may telephone the meter reading to the utility, and provide the appropriate telephone number; and
2. Shall include a prepaid business reply card that enables the customer to mark the meter reading and send it to the utility.

(e) [(b)] Rules concerning estimated bills for [residential] all 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] shall make available to all customers a postage paid business reply card on which the customer may mark the meter reading[. Said] as follows:
 - i. The business reply card shall have appropriate explanation. The utility [must] shall 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] utility shall 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] shall 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] utility 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] shall 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.] 5. 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] utility 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] utility.; and [7.] 6. Annually, the [company] utility shall notify all customers of their rights to amortize as outlined in [(b)6] (d)5 above.

[(c)] (f) Prior to the implementation of any plan, automated or otherwise, which would [be utilized to] replace or modify a utility's current method of taking actual meter readings for any class of customers, said plan [must] shall 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] If the plan provides that the utility is not required to utilize a human to read meter indices for billing purposes, the plan shall be accompanied by all of the following:

1. A justification for the new or modified plan;
2. A list of all associated costs and/or savings[the,] ;
3. The impact, if any, upon safety[,] ; and
4. [the] The potential for the diversion of service.

[14:3-7.10] 14:3-7.3 Form of bill for unmetered service

(a) [The bill] A bill for unmetered service shall show the following:

1. The time period [of] covered by the bill;
2. (No change.)
3. The gross and/or net amount of the bill; and
4. (No change.)

[14:3-7.11] 14:3-7.4 Method of billing

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

(b) [Metered and telephone seasonal service] Seasonal metered service and seasonal telephone 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, including a telephone utility, may, under uniform nondiscriminatory terms and conditions, require payment in advance for [a period not to exceed [that for which bills are regularly rendered] one billing period, as specified in its applicable tariff [filed with and approved by the Board. Initial and final bills shall be prorated as of the date of the initial establishment and final termination of service].

(d) (No change.)

[14:3-7.11A Requirement for budget] 14:3-7.5 Budget billing [and payment] plans [of gas, electric, water and wastewater utilities] for residential accounts

(a) This section applies only to gas, electric, water and wastewater utilities. It does not apply to telecommunications utilities.

(b) Each gas, electric, water and wastewater utility which does not bill on a flat rate basis shall file with the Board and have available to the public on request a budget billing [and payment] plan for residential accounts [having the characteristics set forth below]. The budget billing plan shall allow a customer to pay a predetermined monthly rate for a set time period (known as the budget plan year), based on the customer's average usage. At the end of the budget plan year, the public utility shall "true up" the account and will adjust the customer's charges to reflect the actual usage over the budget plan year.

(c) The budget billing plan required by this section

[1. The plan] shall be [voluntary] optional, except for residential electric or gas customers who apply for and are eligible for the Winter Termination Program under N.J.A.C. 14:3-3A.5.

[2.] (d) The projected monthly budget amount that a customer owes under a budget billing plan shall be determined by the following factors:

[i. Usage] 1. Monthly usage on the customer's account for the past season [by month];

[ii.] 2. Actual weather conditions encountered during the past season, adjusted to normal year;

[iii.] 3. Base rate increases and levelized energy or levelized gas adjustment charges actually granted by the Board; and

[iv.] 4. Projected changes in the levelized energy or levelized gas adjustment charges.

[3.] (e) The utility [company] shall have the authority to determine whether the [time frame of the] budget plan [,] year lasts 10, 11 or 12 months[.], except that the time frame for all residential electric or gas customers who seek the protection of the Winter Termination Program shall be twelve months. Any change in time frame will require prior approval by the Board of Public Utilities.

[4.] (f) If a customer is a new customer with little or no prior history of utility use, the monthly budget amount shall be determined [by] using a reasonable estimate of likely usage.

[5. A comparison shall be made between] (g) The utility shall compare the actual cost of service rendered, as determined by actual meter readings, and the monthly budget amount as follows:

[i.] 1. The comparison shall be made at least once in the budget plan year;

[ii.] 2. The comparison shall take into account [consumption] the customer's usage 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.] 3. 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] . There shall be no more than one such adjustment during the budget plan year;

[iv.] 4. 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.] 5. A utility shall notify budget billing 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.] (h) The budget billing plan shall be offered by a bill insert or bill message to eligible customers at least twice in each 12 month period.

[7.] (i) The budget billing plan bill shall contain the information required by N.J.A.C. 14:3-[7.9] 7.2 (Form of bill for metered service), N.J.A.C. 14:3-[7.10] 7.3 (Form of bill for unmetered service) and N.J.A.C. 14:3-[7.11] 7.4 (Method of billing). In addition, the budget billing 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] (j) Except for Winter Termination Program customers, a customer may go off a budget billing 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)] 7.6.

[(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.

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

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received at the utility's office not more than two full business days after the due date printed on the bill, the customer shall be deemed to have made timely payment. A public utility may discontinue service for nonpayment of bills provided it gives the customer, except for a fire protection service customer as set out in (f) below, at least 10 days written notice of its intention to discontinue. This written notice shall be sent by first class mail, apart from the bill and as a separate mailing. However, should a utility find that compliance with this rule would result in financial harm and/or would negatively impact the utility's daily operations, the utility may file a written request for exemption with the Secretary of the Board, setting forth the basis for such request. The notice of discontinuance shall not be served until the expiration of the said 15-day period. A new notice shall be served by the utility each time it intends to discontinue service for nonpayment of a bill except that no additional notice shall be required when, in response to a notice of discontinuance, payment by check is subsequently dishonored. However, in the case of fraud, illegal, use, or when it is clearly indicated that the customer is preparing to leave, the 15-day period shall be waived and immediate payment of accounts may be required. An electric, gas, telephone, water, or wastewater company shall, upon request of the customer, send a Spanish language version of the notice of discontinuance.

1. Electric, gas, water, wastewater and telephone public utilities shall annually notify all residential customers that, upon request, notice of discontinuance of service will be sent to a designated third party as well as to the customer.
2. Electric, gas, water, wastewater and telephone public utilities shall make good faith efforts to determine which of their residential customers are over 65 years of age, and shall make good faith efforts to notify such customers of discontinuance of service by telephone in addition to notice by regular mail. This effort may consist of an appropriate inquiry set forth on the notice informing customers that they may designate a third party to receive notice of discontinuance. This provision shall not apply to utilities which make good faith efforts to contact all residential customers by telephone prior to discontinuance and file with the Board a statement setting forth such procedure.
3. Electric and gas utilities shall, on a semi-annual basis, solicit information from their residential customers in order to determine the presence of any life-sustaining equipment on the customer's premises.
4. Electric, gas, water, wastewater and telephone public utilities shall provide written notification to the Board's Division of Customer Assistance at least 14 business days prior to the discontinuance of service to hospitals, nursing homes, assisted care facilities, public and private schools, colleges and universities, and airports and other major transportation facilities including, but not limited to, railroad, autobus and subway facilities. The notification shall include:
 - i. The name of the customer of record;
 - ii. The location of the premises;
 - iii. The amount owed;
 - iv. A statement of account including payment history;
 - v. The method of and attempts made for negotiation and resolution; and
 - vi. The scheduled discontinuance date.

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(b) When the customer is a public utility under the Board's jurisdiction, the serving utility shall concurrently serve a copy of the notice of discontinuance on the Board.

(c) On all notices of discontinuance to residential customers there shall be included:

1. A statement that reflects that the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities and includes the address and telephone numbers of the Board. The telephone numbers of the Board to be indicated on such statement are (973) 648-2350 and 1-800-624-0241 (toll free).

2. A statement that in the event the customer is either unable to make payment of a bill or wishes to contest a bill the customer should contact the utility. The notice shall contain information sufficient for the customer to make appropriate inquiry.

3. A statement that if a customer is presently unable to pay an outstanding bill, the customer may contact the utility to discuss the possibility of entering into a reasonable deferred payment agreement. In the case of a residential customer receiving more than one different service from the same utility, the statement shall state that deferred payment agreements are available separately for each utility service.

(d) On all notices of discontinuance to residential electric and gas customers there shall be included, in addition to (c) above:

1. A statement that the customer may contact the Board of Public Utilities to request assistance in the resolution of a bona fide disputed charge and further, that a customer may also request a formal hearing concerning such disputed charge.

2. A statement that if, within five days, a request is made to the Board of Public Utilities for an investigation of the disputed charge, the customer's service shall not be discontinued because of non-payment of bills provided all undisputed charges are paid.

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

(e) The statement required to be included on notices of discontinuance of electric and gas customers pursuant to (c) and (d) above shall be printed on the back of the notice under the headline (in boldface) "STATEMENT OF CUSTOMER'S RIGHTS." The headline shall be printed in type no less than one-half inch in height (36 points). The individual statements shall be printed in type no less than 1/6 inch in height (12 points). No other matter shall be printed upon the back of the notice.

(f) Each water utility shall:

1. At least 30 days prior to the discontinuance of fire protection service, the water utility providing that service shall give notice 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;

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- 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 or multi-use service is ultimately discontinued, immediately notify, via certified mail, the parties listed in (f)1 above and the:
- Customer Service Division
 - Insurance Service Office
 - Commercial Risk Services
 - 2 Sylvan Way
 - Parsippany, New Jersey 07054

14:3-7.12A Winter termination of residential electric and gas service (Winter Termination Program)

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

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

(b) Those residential electric or gas customers whose services have been discontinued for non-payment and have not been reconnected as of November 15, and who are otherwise eligible for protection under the Winter Termination Program, shall be required to make a down payment of up to 25 percent of the outstanding balance as a condition precedent to the receipt of services during the current heating season. The customer shall be notified, at the time of enrollment in a budget payment plan as required by (c) below, that the 25 percent down payment shall represent a maximum required amount and is not to be regarded as a minimum required payment. The utility shall consider the customer's ability

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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:

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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;

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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.

14:3-7.13] 14:3-7.6 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] A customer that disputes a charge shall so notify the utility, and shall pay all undisputed charges [are paid and a].

(b) If the utility and the customer do not resolve the dispute, the utility shall notify the customer in writing that:

1. The customer may make 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.] ;
2. The request for investigation shall be made within five days after the customer contacts the utility [notice under this subsection] to dispute the charges; and
3. If the customer does not make a request for investigation within five days, the customer's service will be discontinued for nonpayment in accordance with N.J.A.C. 14:3-3A.

(c) Once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease.

(d) Each utility shall provide the Board's Division of Customer Assistance with responses to written complaints within five days and within three days for verbal complaints.

(e) When the Board has determined that a formal or informal dispute has been resolved, the utility [is required to] shall provide [at least seven days written] notice to the customer in accordance with N.J.A.C. 14:3-3A.3 before service may be discontinued.

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

(g) When the amount of an electric, gas, water or wastewater bill is significantly higher than the customer's established consumption history, 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 on the customer's meter, in the evaluation of whether the bill is correct and appropriate.

14:3-7.7 Deferred payment agreements

(a) [(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.

(b) [In negotiating such a] The following shall apply to a deferred payment agreement(s)[,] under this section:

1. The utility shall not require 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[.];
2. In the case of a residential customer who received more than one utility service from the same utility [and] , if 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.];
3. The utility shall not require [such] a customer described under 2 above to accept two or more deferred agreements that extend over the same time period[. The] ;
4. A customer described under 2 above shall have the option to enter into a deferred payment agreement(s) for one service and have the remaining service(s) disconnected until satisfactory arrangements for payment can be made[.];
5. 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[.];
6. [1.] A non-residential electric, gas, water and/or wastewater customer shall be allowed to enter into a deferred payment agreement for a period of no more than three months[.] ; and
7. A utility [may request from] shall not require a non-residential electric, gas or Class A water [company] utility customer or [from] a customer of a wastewater [company] utility that meets the Class A water [company] utility revenue threshold, to pay 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.

(c) [(d)] Such] Any deferred payment 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.

(d) 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.

(e) The Board may order a utility to accept more than one deferred payment agreement in a year if said action is reasonable.

(f) 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 accordance with N.J.A.C. 14:3-3A.3. In the case of a residential customer who receives more than one utility service from the same utility and has [subsequently] entered into a separate agreement for each separate service, default on one such agreement shall constitute grounds for discontinuance of only that service.

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

1. For purposes of this subsection, "billing error" shall mean a charge to a residential customer in excess of that approved by the Board for the type of service supplied to that customer or in excess of the charge due for the service supplied to that customer as measured or recorded by meter or other device; except that neither the amount of any estimated bill in and of itself, nor the amount due on a budget account installment shall constitute a billing error.
2. The period of time constituting "two billing cycles" shall be determined by the billing practices of the public utility in place at the time of receipt by the utility of the written notification by the customer of the error. In no event shall such period be considered to be less than 60 days.
3. Each public utility shall annually provide written notice of the provisions of this subsection to each of its residential customers.

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

1. A late payment charge shall not be approved if it is applicable to bills less than 25 days after rendering.
2. A late payment charge shall not be approved for a rate schedule applicable to a state, county or municipal government entity or any residential customer.

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

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Note: N.J.A.C. 14:3-7.14 and 7.15, are recodified at N.J.A.C. 14:3-3A.6 and 3A.7, respectively.

[14:3-7.16] 14:3-7.8 Diversion of service

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

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

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

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

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

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

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

(b) Each electric, gas, water and/or wastewater utility shall [file] include in its tariff [amendments to provide] provisions ensuring that tenant-customers shall not be required to pay for service supplied outside their premises without the tenant-customers' consent.

(c) (No change.)

(d) [Investigation of] Each utility shall investigate alleged diversions [shall be conducted] as follows:

1. When a tenant-customer alleges in good faith that the level of consumption reflected in his or her utility bill is unexplainably high, the tenant-customer may request the utility supplying gas, electricity, water and/or wastewater service to conduct a diversion investigation at no cost to the customer[.] ;
2. 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[.];
3. The application shall state that, if the tenant-customer has made one or more previous diversion complaints in the previous twelve-month period, which failed to

uncover a diversion of utility service, the utility may bill the customer for the cost of the second [investigation] and subsequent investigations [within a 12-month period that fails to uncover the utility diversion.]

4. The utility [must] shall investigate the alleged diversion within two months of the receipt of the investigation request. Each diversion investigation [must] shall include a meter test conducted in accordance with N.J.A.C. [14:3-4.5.] 14:3-4.4;
5. [i.] The utility shall have the right of reasonable access pursuant to N.J.A.C. [14:3-3.8] 14:3-3.6. For purposes of utility access, the alleged diversion is presumed to constitute a hazardous condition until the utility investigates[.];
6. [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[.];
7. [2. The] If a diversion is found, the utility shall attempt to determine the identity of the beneficiary[.];
8. (No change.)
9. Additionally, the tenant-customer shall provide any other information which may assist the utility in its investigation[.]; and
10. [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[.];
11. 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[.]; and
12. (No change.)

(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[.]; and
2. (No change.)

(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] utility representative. Reasonable efforts shall be made to hold the conference within 30 days of the investigation at a mutually convenient time and place.

1. - 6. (No change.)

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

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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] utility'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/or 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] utility'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] utility 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[.]; and
6. (No change.)

(h) (No change.)

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

(j) [The utility shall keep records of diversion of service complaints and their resolution in accordance with the Board's existing rules governing customer record retention per N.J.A.C. 14:3-6.1 and 7.8.] Each electric, gas, water and/or wastewater utility shall annually report to the Board on the utilization of the diversion of service complaint proceedings

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provided for in (a) through (k) above. This report shall be provided on a Board-approved report format.

Note: N.J.A.C. 14:3-7.17 is recodified at N.J.A.C. 14:3-3A.8.

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

14:3-8.1 Scope and applicability

(a) - (c) (No change.)

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

1. [This subchapter only applies to cable television companies in the following manner. Cable television companies shall comply with the provisions of N.J.A.C. 14:3-8.1, 8.2 through 8.5, 8.6(b), 8.8 and 8.13 only] This subchapter does not apply to cable television companies. The extension of cable television service shall be governed by N.J.S.A. 48:5A-28 and N.J.A.C. 14:18-3.2;
2. This subchapter does not apply to a telecommunications public utility that has obtained a system-wide franchise from the Board in accordance with N.J.A.C. 14:18-14; and
3. (No change.)

(e) - (h) (No change.)

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

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

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

14:3-8.2 Definitions

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

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

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

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

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

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

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

1. Planning Area 1 (Metropolitan Planning Area, or PA-1);
2. Planning Area 2 (Suburban Planning Area, or PA-2);
3. A designated center;
4. An area identified for growth as a result of [either an initial or advanced] a petition for municipal plan endorsement that has been approved by the State Planning Commission pursuant to N.J.A.C. 5:85-7;
5. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (l) of section 6 of N.J.S.A. 13:17-6; or
6. A Pinelands Regional Growth Area, Pinelands Village or Pinelands Town, as designated in the Comprehensive Management Plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the Pinelands Protection Act, N.J.S.A. 13:18A-8.

Assistance in determining whether a particular parcel of land in a designated growth area can be obtained through the Smart Growth Locator web site at <http://sgl.state.nj.us>, and from the Department of Community Affairs Office of Smart Growth website at <http://www.nj.gov/dca/osg/>.

"Distribution revenue" means the total revenue, plus related Sales and Use Tax, collected by a regulated entity from a customer, minus the following, as applicable:

1. For a gas public utility, as defined at N.J.A.C. 14:4-2.2, Basic Gas Supply Service charges, plus related Sales and Use Tax on the Basic Gas Supply Service charges, assessed in accordance with the gas public utility's tariff; and
2. For an electric public utility as defined at N.J.A.C. 14:4-1.2, Basic Generation Service charges, plus Sales and Use Tax on the Basic Generation Service charges, and, unless included with Basic Generation Service Charges, transmission charges derived from FERC approved Transmission Charges, plus Sales and Use Tax on the transmission charges, charges assessed in accordance with the electric public utility's tariff.

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

1. For water service and for wastewater treatment service, the extension ends at the curb of the property or properties on which the customers to be served are located, but also includes the meter[. Any piping], if any, as well as any of the following that are located on the property's roadside right-of-way:
 - i. [fire] Fire hydrants [and branches,];
 - ii. Branches; or
 - iii. [other] Other water infrastructure [(with the exception of the water meter)] serving others besides the applicant[, which is within the boundary or the property or properties to be served, is not included in the extension and is the responsibility of the customer];
2. For gas service, the extension ends at the meter and includes the meter;
3. For an overhead extension of electric service, the extension ends at the point where the service connects to the building, but also includes the meter;
4. For an underground extension of electric service, the extension ends at, and includes, the meter; [unless the applicant and the regulated entity make other arrangements;] and

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

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

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

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

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

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

14:3-8.3 General requirement to provide extensions

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

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(b) (No change.)

(c) A regulated entity is not required to construct, own, operate or maintain an extension on any property unless the regulated entity is legally authorized to do so, for example through an easement or right of way. The applicant shall ensure that the regulated entity is provided with such legal authority, at no cost to the regulated entity and with no requirement for condemnation of the property. This subsection shall not be construed to limit the effectiveness of existing easement or right of way documents, nor to require new or additional easements or other documents where valid documents have previously been accepted and/or recorded. A regulated entity shall accept existing valid documentation, unless the documentation fails to adequately describe the legal authority necessary to accomplish the requested extension. This subsection does not require an applicant for an extension to clear vegetation from a right-of-way.

(d) - (e) (No change.)

(f) Construction of an extension shall include all physical work required to construct the extension, including but not limited to site preparation, vegetation clearing, trenching, and related work.

(g) A utility may refuse to connect a customer to the utility's distribution system if there is any facility or condition on the customer's premises that does not meet the standard terms and conditions of the utility's tariff and all applicable requirements of this chapter and other law.

(h) If, because of its size or character, any facility or condition on the customer's premises is so unusual that it may adversely affect the adequacy of the service furnished to other customers, present or prospective, the utility may set special conditions for connection or may refuse to connect.

14:3-8.4 Requirement to put certain extensions underground

(a) (No change.)

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

(c) - (e) (No change.)

(f) Underground service shall be reasonably equivalent to comparable overhead service, and shall ensure that the customer will receive safe, adequate and proper service while minimizing the difference in cost between overhead and underground service.

(g) If underground service is required by this [subsection] section, or an applicant desires underground service where it is not required under (d) or (e) above, the construction costs shall be distributed as follows, regardless of who actually performs the construction:

1. In a designated growth area [as defined by N.J.A.C. 14:3-8.2], the additional cost for underground extensions of service, over and above the amount it would cost to serve those customers overhead, shall be a nonrefundable contribution in aid of construction paid by the applicant according to N.J.A.C. 14:3-8.9(h). The remainder of the cost of the service, that is, the amount which overhead service would have cost, shall be shared between the applicant and the regulated entity in accordance with N.J.A.C. 14:3-8[.]; and
2. In an area not designated for growth, a regulated [entities'] entity's ability to pay for or contribute financially to extensions is governed by N.J.A.C. 14:3-8.5 and 8.6.

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

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

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

[(j)] (k) Where affected regulated entities determine that it is practical, electric cables, communication cables, and cable television cables shall be installed in the same trench, if this can be done consistent with all applicable codes and regulations, and in particular those pertaining to safety.

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

14:3-8.5 General provisions regarding costs of extensions

(a) - (e)

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

(g) (No change.)

(h) [There may be a case where an applicant requests an extension and the regulated entity wishes to construct additional capacity over that required under N.J.A.C. 14:3-8.3(e).] If, in a designated growth area, a regulated entity chooses to construct an extension or portion of an extension with additional capacity, over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may pay for or contribute financially to the incremental cost of the additional capacity, [or] but may not require the applicant to pay for such additional capacity.

(i) If, in an area not designated for growth, a regulated entity chooses to construct an extension or portion of an extension with additional capacity, over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may require an applicant [in an area not designated for growth] to pay for [it] the additional capacity, or the regulated entity may pay for the additional capacity itself, subject to (j) below.

(j) [However, if] If any of the additional capacity constructed under (h) or (i) above is added to serve anticipated customers in an area not designated for growth, the Board will consider this fact when considering whether the investment in additional capacity was reasonable and prudent, in determining whether to allow the regulated entity to include the cost of the additional capacity in its rate base or recoverable costs.

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

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

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

[(l)] (n) A regulated entity may base the cost of an extension, for the purpose of determining the amount of the required deposit or non-refundable contribution, on site-specific unitized costs. The regulated entity shall determine the site-specific unitized cost by:

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1. - 3. (No change.)
4. Adding up the results obtained under [(l)] (n)3 above.

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

(a) (No change.)

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

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

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

1. For extensions of water service, by 1.5; and
2. For extensions of all other regulated services, by three.

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

1. For extensions of water service, by .75; and
2. For extensions of all other regulated services, by 1.5.

(f) (c) After January 1, 2007, both of the following shall apply:

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

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

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

1. Natural gas conversions, as described in [(c)] (j) below;
2. - 3. (No change.)
4. An extension already in progress as of March 20, 2005, as described in (g) below; and
5. When it is necessary to reestablish an equivalent level of service to an existing customer after the structure receiving that service was damaged or destroyed by a force outside the control of the customer or regulated entity such as a fire, flood or hurricane[;].

(b) The following may be exempt from the requirements for costs of extensions to serve development in an area not designated for growth at N.J.A.C. 14:3-8.6, if the Board determines that they meet all applicable requirements of this section:

- [6.] 1. A project that will provide a significant public good, as described in (h) below; and
- [7.] 2. A project for which compliance would cause extraordinary hardship, as described in (i) below.

[(b)] (c) An exemption described at (a)1 through 5 above shall not require prior written approval from the Board. An exemption described at [(a)6 or 7] (b)1 or 2 above shall require prior written approval from the Board [staff]. The Board and/or Board staff may require those seeking exemptions to submit additional information as necessary to assist in the analysis of the exemption request.

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

(d) An extension [with the sole purpose of serving] to serve an agricultural use, building, or structure [whose sole use is] that is used in or supportive of the production, storage, packing [or], processing or on-farm sale of agricultural or horticultural products[, provided that a majority of these products were produced] on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3, [or an extension with the sole purpose of serving an agricultural irrigation system on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3,] shall be exempt from the limits at N.J.A.C. 14:3-8.6. Such uses, buildings and structures shall include but not be limited to wells and pumps, packing and processing equipment and buildings, structures for product and machine storage, maintenance shops for farm related equipment, farm market structures, housing for members of the farm family, and on-farm housing for agricultural laborers. The costs for an extension covered by this subsection

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shall be governed by the requirements for extensions to serve a designated growth area at N.J.A.C. 14:3-8.7.

(e) - (f) (No change.)

(g) If construction of an extension, or the installation of any temporary service, has begun prior to March 20, 2005, or if a regulated entity has committed in writing to pay a specific dollar amount for [or financially support the] an extension, prior to March 20, 2005, the extension shall be exempt. A subdivision approval, building permit, zoning variance, or verbal or nonbinding communication with a regulated entity shall not, by itself, provide sufficient grounds to exempt an extension under this subsection.

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

1. (No change.)
2. That the project described in (h)1 above is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth. In making this determination, the Board will consult with the Office of Smart Growth and, if applicable, other State agencies; and
3. There is no practicable alternative means of providing the benefit while still complying with this subchapter. This shall include a showing of why it is not possible or practicable to build the project in an area designated for growth.

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

1. Compliance with this subchapter would cause an extraordinary hardship. Factors the Board will consider when deciding whether an extraordinary hardship exists include but are not limited to: the cost of the extension; the degree of financial hardship created by the cost of the extension; and the impact of the development served by the extension on land use patterns. However, financial hardship alone shall not constitute a basis for this exemption;
2. (No change.)
3. The unique circumstances arise from the project itself or the activity served by the extension, and not from the circumstances or situation of the regulated entity or its customers; and
4. (No change.)

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

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

1. - 3. (No change.)
4. For any exemption not covered at [(j)](k)1, 2, or 3 above, the regulated entity shall pay for or financially contribute to an extension in accordance with the requirements at N.J.A.C. 14:3-8.7 governing extensions in a designated growth area.

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

(a) The Board [staff] will direct the regulated entities to apply the suggested formula only if all of the following criteria are met:

1. - 2. (No change.)
3. The extension is not exempt on the basis of a significant public good or an extraordinary hardship under N.J.A.C. 14:3-8.8(h) or (i), respectively. If an extension is exempt under N.J.A.C. 14:3-8.8(h) or (i), its costs shall be distributed in accordance with N.J.A.C. 14:3-8.8(k)3; and
- [3.] 4. Either the regulated entity or the applicant for an extension submits a request to the Board [staff] to apply the suggested formula, based on the parties' inability to reach agreement upon the amount of the regulated entity's financial contribution to the extension.

(b) - (h) (No change.)

SUBCHAPTER 9. (Reserved) [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.

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.

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.

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(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.

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.

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.

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 income of such sale;
5. Reasons for the contract or agreement.]

SUBCHAPTER 10. TARGETED REVITALIZATION INCENTIVE PROGRAM (TRIP)

14:3-10.1 Purpose and scope, general provisions

(a) - (b) (No change.)

(c) This subchapter does not apply to cable television operators, including telecommunications companies that have obtained a system-wide franchise from the Board in accordance with N.J.A.C. 14:18-14.

(d) - (e) (No change.)

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

14:3-10.7 Calculating the TRIP charge

(a) - (d) (No change.)

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(e) The TRIP charge shall be calculated annually using the following formula:

Image?

For the purposes of the above formula, the following terms are defined as follows:

1. - 5. (No change.)
6. "ATCR" means the after tax cost rate, which shall be calculated by multiplying the return on ERI under the TRIP by (1 minus the income tax rate that applies to the regulated entity). The return shall be the rate for seven-year constant maturity treasuries, as shown in the Federal Reserve Statistical Release published on or closest to the August 31 immediately prior to the annual TRIP adjustment approval, plus 60 basis points. For example:
 - i. If the return on ERI (that is, the rate for seven year constant maturity treasuries) is five percent, and the Federal Income Tax Rate is 35 percent, and the Corporate Business Tax is nine percent, the ATCR will be 3.31 percent. This is calculated using the combined income tax rate of 40.85 percent $[(0.09 * 1) + (0.35 * (1 - 0.09))]$, using the above formula as follows (5 percent + .6 percent) $\times (1 - 40.85 \text{ percent})$;
7. - 12. (No change.)

(f) (No change.)

SUBCHAPTER 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.]

This subchapter shall apply to all public utilities, as defined at N.J.A.C. 14:3-1.1.

14:3-12.2 Initiation of audit

(a) 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.

(b) The Board may require an audit to be performed by members of its staff or by an independent management consulting firm under the supervision of members of the Board's staff.

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(c) The Board may require that a written agreement, setting forth all terms and conditions of the audit, be signed by authorized representatives of the utility and the selected consulting firm.

[14:3-12.3 Performance of audit

(a) Where 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] 14:3-12.3 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] 14:3-12.4 Implementation of results

(a) - (c) (No change.)

SUBCHAPTER 13. INTEREST ON [DEFERRED] OVER OR UNDER RECOVERED COST BALANCES [OF LEVELIZED ENERGY ADJUSTMENT CLAUSES, LEVELIZED GAS ADJUSTMENT CLAUSES, PURCHASED WATER ADJUSTMENT CLAUSES AND PURCHASED WASTEWATER TREATMENT] UNDER ADJUSTMENT CLAUSES

14:3-13.1 Scope

(a) [The rules contained in this subchapter shall apply to deferred balances] This subchapter provides for a gas, water, or wastewater public utility to pay interest to customers on over/under-recovered gas, water, or wastewater cost balances, as these terms are defined at N.J.A.C. 14:3-13.2, which result from the operation of [Levelized Energy Adjustment Clauses, Levelized Gas Adjustment Clauses,] the following:

1. Periodic Basic Gas Supply Service (BGSS) pricing clauses;
2. Purchased Water Adjustment Clauses; and
3. Purchased [Sewerage] Wastewater Treatment Adjustment Clauses.

(b) As part of each Board proceeding during which one or more periodic Basic Gas Supply Service (BGSS) charges is set, the gas utility shall submit a calculation demonstrating how much interest, if any, the utility owes to customers in accordance with this subchapter.

(c) As part of the year-end true up schedule required under N.J.A.C. 14:9-7.4, a water or wastewater utility shall submit a calculation demonstrating how much interest, if any, the utility owes to customers in accordance with this subchapter.

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[:]. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and N.J.A.C. 14:4-1.2.

["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] wastewater treatment" [means the cost of contractually purchased sewerage treatment as established in the most recent base rate or

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adjustment clause case of a wastewater 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.) has the same meaning as is assigned to this term at N.J.A.C. 14:9-7.2.

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

["Deferred accounting" has the same meaning as defined in N.J.A.C. 14:9-1.2.

"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.]

"Over/under-recovered gas cost balance" means the amount that a gas utility has recovered from customers through basic gas supply service (BGSS) charges to date, less the net prudently incurred costs that the Board has determined are recoverable through BGSS charges to date. If the recoveries through BGSS charges to date exceed the utility's net gas costs to date, the amount of excess is the utility's over-recovered gas cost balance. If the utility's gas costs to date exceed the utility's net recoveries through BGSS charges to date, the amount of excess is the under-recovered gas cost balance.

"Periodic Basic Gas Supply Service charge" or "periodic BGSS charge" means a charge that the Board authorizes a gas utility to collect from all of its periodic BGSS customers, which is designed to enable the utility to recover the net cost of natural gas, or a substitute or supplemental fuel, that the utility has sold to customers.

"Periodic BGSS customer" means a customer who receives gas service under a periodic BGSS tariff.

"Periodic BGSS pricing clause" means the mechanism through which the Board authorizes a gas utility to adjust its periodic BGSS charge. These adjustments are made with the goal of achieving a zero over/under recovered gas cost balance by a specific date. The parameters for periodic BGSS pricing clauses are governed by various Board Orders, including but not limited to the Board's Order in Docket Number GX01050304, dated January 6, 2003.

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

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

[14:3-13.3 Interest rate

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

14:3-13.4 Interest calculation

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.]

14:3-13.3 Interest calculation on over or under recoveries

(a) Each utility shall determine whether it owes interest to customers on excess funds recovered through adjustment clauses, and shall calculate any interest owed, in accordance with this subchapter. In no event shall interest be due to the utility as a result of a BGSS pricing clause, a purchased water adjustment clause, or a purchased wastewater treatment adjustment clause.

(b) The calculation of the amount of interest owed to customers, if any, shall cover the "applicable period", which shall be the twelve-month period under review in the clause proceeding, unless otherwise specified by the Board.

(c) A gas utility, or a Class A water utility, or a wastewater utility that meets the revenue threshold for a Class A water utility, shall calculate the interest due to customers as follows:

1. Determine the interest rate to be used in the calculation as follows:
 - i. Divide the utility's Board-approved overall rate of return, in effect at the time of the calculation, by twelve; and
 - ii. Round the amount derived under (c)1i above to four decimal places; and
2. Apply the interest rate in (c)1 above to calculate the interest due to customers in accordance with the applicable requirements at (d) or (e) below.

(d) A gas utility shall:

1. Determine the interest rate for each month of the applicable period in accordance with (c)1 above;
2. Multiply the rate determined under 1 above by the average over/under-recovered gas cost balance for the month; and
3. At the end of the applicable period, add together the monthly amounts calculated under (d)2 above.

(e) A Class A water utility, or wastewater treatment utility that meets the revenue threshold for a Class A water utility, shall:

1. If the utility bills customers monthly, the utility shall calculate the interest in the same manner as gas utilities under (d) above, utilizing the over-recovery amount determined under N.J.A.C. 14:9-7.4 rather than the over-recovered gas cost balance; or
2. If the utility bills customers quarterly, the utility shall, at the end of the applicable period, do the following:

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- i. Multiply the over-recovery amount determined under N.J.A.C. 14:9-7.4 by the interest rate determined in (c)1 above; and
 - ii. Multiply the amount determined under (e)2i above by the number of months in the applicable period.

- (f) A Class B, C, or D water utility, or a wastewater utility that does not meet the revenue threshold for a Class A water utility, shall:
 1. Multiply the over-recovery amount determined under N.J.A.C. 14:9-7.4 by the interest rate determined in (c)1 above;
 2. Multiply the amount determined under (f)1 above by the number of months in the applicable period; and
 3. Round this amount to four decimal places.

- (g) If the amount resulting from the calculations at (d), (e), or (f) above is zero or a negative number, the utility shall not owe interest to customers for the applicable period. If the amount is a positive number, this is the amount of interest that is due to customers.

- (h) Any interest due to customers from a water or wastewater utility shall be credited or refunded to customers in accordance with N.J.A.C. 14:9-7.4.

- (i) Any interest due to customers from a gas utility shall be added to the utility's over/under-recovered cost balance. The sum of the interest and the over/under-recovered cost balance shall be incorporated into the calculations of the BGSS rate for the next applicable period.