ordered to attend a prostitution offender program by the sentencing court.]*

[(b)] The Attorney General shall make public the list of approved course providers on the Department's public web site and such other public web sites as the Attorney General determines to be appropriate. The Attorney General shall also distribute the schedule of programs to ***the Commission and to*** the courts through the Administrative Office of the Courts.

13:77-2.10 Notification from approved provider of offender compliance

(a) A provider shall notify the Director of failure on the part of an offender to remain at the course for its entirety and to complete any written tests during the course, to engage in disruptive or threatening behavior during a course, or failure to provide relevant identifying information. Such failure shall be considered non-compliance and shall result in a referral by the Director or designee to the sentencing court for appropriate action.

(b) The Director shall mail notice of non-compliance to the offender's address on the record of conviction, or a more recent address if the offender advised the provider of a change of address, and to the sentencing court.

(c) An approved provider shall notify the sentencing court and the Director of an offender's completion of a course within seven days of completion.

13:77-2.11 Fees

(a) Penalties assessed against an offender or subsequent offender by the court at the time of conviction as provided for at N.J.S.A. 2C:34-1.2, or any amendment thereto, shall be payable to the court each time the person is convicted of a relevant solicitation offense and ordered to attend the prostitution offender program for deposit in the Human Trafficking Survivor's Assistance Fund.

(b) Approved course providers shall submit invoices to the Attorney General on a monthly basis requesting reimbursement for each offender who completed a prostitution offender program course with that provider. Payment will be made from the monies available in the Human Trafficking Survivor's Assistance Fund, pursuant to N.J.S.A. 52:17B-238, as provided in N.J.S.A. 2C:34-1.2.

13:77-2.12 Data collection

Course providers shall provide such additional data or information as may be requested by the Director for use in evaluating, supporting, analyzing, or otherwise compiling information concerning the prostitution offender program.

(a)

DIVISION OF GAMING ENFORCEMENT

Rules of the Games
Heads Up Hold 'em

Temporary Adoption of New Rules: N.J.A.C. 13:69E-1.13Z and 39.1 though 39.12

Authority: N.J.S.A. 5:12-69.a, 69.e, 70.a(7), 70.a(10), and 76.g.

Take notice that the Division of Gaming Enforcement shall, pursuant to N.J.S.A. 5:12-69.e, amend the regulations regarding the Rules of the Games to authorize "Heads up Hold 'em."

The experiment for the optional side bet "Heads up Hold 'em" for the game of blackjack will be conducted in accordance with a temporary rule amendment, which shall be available in each casino and shall also be available from the Division upon request.

This experiment could begin on or after December 28, 2015, and continue for a maximum of 270 days from that date, unless otherwise terminated by the Division or any of the participating casino licensees prior to that time, pursuant to the terms and conditions of the experiment.

Should the temporary amendment prove successful in the judgment of the Division, the Division will propose it for final adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act and N.J.A.C. 1:30.

(b)

DIVISION OF GAMING ENFORCEMENT

Rules of the Games
Poker
Big Omaha poker

Temporary Adoption of New Rule: N.J.A.C. 13:69F-14.11A

Authority: N.J.S.A. 5:12-69.a, 69.e, 70.a(7), 70.a(10), and 76.g.

Take notice that the Division of Gaming Enforcement shall, pursuant to N.J.S.A. 5:12-69.e, amend the regulations regarding the Rules of the Games to authorize "Big Omaha poker."

The experiment for the optional side bet "Big Omaha poker" for the game of blackjack will be conducted in accordance with a temporary rule amendment, which shall be available in each casino and shall also be available from the Division upon request.

This experiment could begin on or after December 28, 2015, and continue for a maximum of 270 days from that date, unless otherwise terminated by the Division or any of the participating casino licensees prior to that time, pursuant to the terms and conditions of the experiment.

Should the temporary amendment prove successful in the judgment of the Division, the Division will propose it for final adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act and N.J.A.C. 1:30.

PUBLIC UTILITIES

(c)

BOARD OF PUBLIC UTILITIES

Service Connections
Extensions of Service

Adopted Amendments: N.J.A.C. 14:3-8.1, 8.2, 8.4, 8.5, 8.9, 8.10, and 8.11
Adopted Repeal and New Rule: N.J.A.C. 14:3-8.6
Adopted New Rule: N.J.A.C. 14:3-8.14
Adopted Repeals: N.J.A.C. 14:3-8.7, 8.8, 8.12, and 10

Proposed: December 1, 2014, at 46 N.J.R. 2323(a).
Adopted: November 16, 2015, by the New Jersey Board of Public Utilities, Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden and Dianne Solomon Commissioners.
Filed: November 16, 2015, as R.2015 d.198, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

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

BPU Docket Number: AX1207061.

Effective Dates: December 21, 2015.
Expiration Date: February 11, 2022.

Summary of Public Comments and Agency Responses:

Timely comments were submitted by:

Michael J. Connolly, Esq. on behalf of New Jersey Electric Distribution Companies (EDCs), Jersey Central Power & Light Company (JCP&L), Public Service Electric and Gas Company (PSE&G), Atlantic City Electric Company (ACE), and Rockland Electric Company (RECO);

Rabbi Shmuel Lefkowitz, on behalf of New Jersey Housing & Neighborhood Development (NJHAND) (Joint Comments);

Steve Reinman, on behalf of Township of Lakewood (Lakewood);

Andrew K. Dembia, Esq. on behalf of New Jersey Natural Gas (NJNG);

Mary Patricia Keefe, Esq. on behalf of Elizabethtown Gas (Elizabethtown Gas);

Carol Ann Short, Esq. on behalf of New Jersey Builders Association (NJBA);

Robert J. Brabston, Esq. on behalf of New Jersey American Water NJAW);

Brian O. Lipman, Esq. on behalf of New Jersey Division of Rate Counsel (Rate Counsel);

John F. Stanziola on behalf of South Jersey Gas (SJG);

Mordechai Eichorn on behalf of Remax On The Move Realty (REMAX);

Zsuzsanna E. Benedek, Esq. on behalf of CenturyLink (CenturyLINK); and

Kevin J. Coakley, Esq., Connell Foley, on behalf of Toll Brothers, Inc. (Toll Brothers).

The Rulemaking Process and Prior-Filed 2011 Comments:

1. COMMENT: The Electric Distribution Companies (EDCs), in Joint Comments, state that on or around October 18, 2011, several New Jersey utilities, including two of the EDCs (that is, JCP&L and PSE&G) submitted separate but similar substantive comment letters (the 2011 Comment Letters) with respect to the staff's proposals regarding the existing rules. Because the Board's proposals went beyond the areas addressed by the Centex Decision, the 2011 Comment Letters addressed shared substantive New Jersey utilities' concerns (other than with respect to the elimination of Smart Growth area references), that were also raised at stakeholder meetings.

The EDCs state that the proposed rules presentation does not materially reflect, address, or acknowledge the New Jersey utilities' substantive comments or the concerns provided during the stakeholder process held in 2011, and disagree with staff's characterization of the proposed rules. The EDCs state they are supportive of the changes in the existing rules necessitated by the Centex Decision for eliminating the concept of Smart Growth areas. The EDCs continue to have serious substantive concerns similar to or the same as, the New Jersey utilities in the stakeholder process.

The EDCs also comment that they continue to have similar, or the same, recommendations regarding addressing other changes unrelated to the dictates of the Centex Decision, as well as recommendations regarding the refunding process set forth in the proposed rules. Therefore, the EDCs urge the Board to consider rescinding all or part of the proposed rules ensuring the stakeholder process can be reconvened and properly concluded as the Board intended, which included addressing concerns raised by the utilities in the 2011 Comment Letters and in these Joint Comments.

RESPONSE: The Board appreciates the EDCs' Joint Comments. Board staff considered all comments that were submitted during the rulemaking process and incorporated them into the rules as was deemed appropriate. The fact that the proposed edits from the stakeholder process have not been made does not mean that they were not considered or that issues raised have not been given attention. Accordingly, no change will be made.

N.J.A.C. 14:3-8.1(c)

2. COMMENT: Rate Counsel states the proposed rules apply to construction of new utility extensions to all customers, residential or non-residential, and the proposed rules should apply only to residential buildings. This is consistent with the old main extension rules that did not directly address the allocation of costs and refund formulas for non-residential customers.

RESPONSE: The Board thanks the commenter for its comments. The Board believes that the suggested formula is the most uniform, fair, and transparent methodology for determining the amount of a deposit and subsequent refund for all parties. The Board believes that it is as important for applicants requesting extensions to serve commercial developments as it is for applicants requesting extensions to serve residential developments that there be transparency and uniformity in the process.

N.J.A.C. 14:3-8.1(d)

3. COMMENT: The proposed rules are intended to regulate "whether a regulated entity may require a deposit from an applicant for an extension, and if so, how much of the deposit will be refunded to the applicant and on what schedule." Rate Counsel comments that cost-sharing should be primarily determined through negotiation, with the formulas applicable only if negotiations between the regulated utility and the applicant for a service extension reach an impasse.

RESPONSE: The Board thanks the commenter for its comments. The Board believes that the suggested formula is the most uniform, fair, and transparent methodology for determining the amount of a deposit and subsequent refund for all parties. The Board believes that having a standardized formula is the best way to determine if an extension will furnish sufficient business to justify the construction and maintenance of the extension. Further, having a standardized formula allows applicants for an extension to know what they can expect when they request a utility extension regardless of factors such as which utility service territory the extension is located in, or which utility manager negotiates the extension "cost-sharing" with the applicant.

N.J.A.C. 14:3-8.2 Definition of Cost and Detailed Estimates

4. COMMENT: The EDCs state that the proposed definition of "cost" in N.J.A.C. 14:3-8.2 should ensure that the applicant pays all expenses directly attributable to service extension work performed for the applicant's benefit ensuring these expenses are not improperly shifted to other ratepayers. Thus, the Board should reconsider its change in the proposed rules to modify the definition of "cost" in N.J.A.C. 14:3-8.2.

The EDCs state that in the existing rules, the definition of the "cost" of an extension includes overhead costs "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." See N.J.A.C. 14:3-8.2. The proposed rules limit overhead costs that may be included to "mapping and design," while specifically excluding "clerical, dispatching, supervision or general office functions."

The EDCs argue no legitimate reason to exclude any direct or indirect costs associated with the construction of a main extension as set forth in the proposed rules. Removing those costs from the calculation of a service extension not only violates standard accounting principles and changes long-standing utility methodologies, it could potentially impose additional costs on all other ratepayers by shifting the financial responsibility for extension-related costs away from the incurring parties. The EDCs comment that service extension work requires the use of support personnel and departments including clerical, dispatching, supervision, and/or general office functions. By excluding these legitimate extension-related costs (which do not disappear) from inclusion in the extension charges assigned to an applicant, the proposed rules will effectively increase the capital costs of the project to the utility and require other customers to pay for these items through rates.

The EDCs acknowledge that Board staff explained the reason for the proposed modification of this definition was that, some utilities were including inappropriate overheads in the cost of an extension. The EDCs comment that this view was shared without specific examples other than by reference to the list of overheads associated with "clerical, dispatching, supervision or general office functions," which were already permitted under the existing rules.

The EDCs state that, by limiting the categories of overheads guarantees that costs legitimately associated with an extension project will not be paid for by applicants for extensions but rather will be left to be paid by ratepayers generally.

The EDCs recommend the Board either (i) leave the current version of the definition of "cost" unchanged; or (ii) clarify the proposed language so that all costs directly attributable to an extension (whether "overheads" or direct charges) may be included in the cost of the extension.

In this regard, the EDCs comment if the Board believes that a change is necessary, the change in the "cost" definition should be consistent with the definition contained in the CFR as used by the Federal Energy Regulatory Commission:

> "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 company labor and

external contracted labor) employed in the actual design, acquisition, construction, and or installation of the extension, including overhead allocations representing back office costs such as maps and records and as-built design records which are attributable to the work performed and are considered a cost of construction. This cost includes engineering, supervision, general offices salaries and expenses, construction engineering and supervision by others than the accounting utility.

5. COMMENT: New Jersey Natural Gas (NJNG) comments that the proposed definition of "costs" in N.J.A.C. 14:3-8.2 should not exclude any costs, direct or indirect, associated with the construction of a main extension as proposed. Removing these costs from the calculation of a service extension not only is contrary to standard accounting principles mandated by the Board and alters long-standing utility plant accounting methodologies, it also may unfairly impose additional operating and capital costs on a utility outside of a base rate case or to all other ratepayers by shifting the financial responsibility for extension-related costs.

6. COMMENT: Elizabethtown Gas comments that the proposed definition of "costs" in N.J.A.C. 14:3-8.2 should not exclude any direct or indirect costs associated with the construction of a main extension as proposed. Removing those costs from the calculation of a service extension not only violates standard accounting principles and changes long-standing utility methodologies, it also could unfairly impose additional costs on all other ratepayers by shifting the financial responsibility for extension-related costs away from the parties that actually incur them.

7. COMMENT: New Jersey American Water (NJAWC) comments that the definition of "cost" proposes to eliminate expenses associated with clerical, dispatch, supervision, or general office functions from the costs of construction. As these types of overhead costs are a real cost, eliminating these costs from the "costs of construction" means that existing customers of the regulated utility will have to pay more in their rates as part of an extension project. As an alternative, NJAWC recommends the Board continue to charge overhead costs to applicants. To extend more cost certainty to applicants and to reduce the administrative burden on utilities, the Board could consider fixing a "not to exceed" overhead percentage to be applied to all projects eligible for refunds under these rules.

RESPONSE TO COMMENTS 4 THROUGH 7: The Board thanks the commenter for its comments regarding overhead costs. The Board agrees that the overhead costs, other than mapping and design, are also legitimate costs of doing business. However, these costs are incurred as part of the Company's normal operations in meeting its regulatory duty to furnish service. The main extension rules have been designed to develop a standardized method for determining if an extension will furnish sufficient business to justify the construction and maintenance of the extension. The main extension rules are not designed to "ensure that the applicant pays all expenses directly attributable to service extension work" as suggested by the commenters. Limiting the overhead costs to mapping and design will avoid allocating costs to applicants that may not directly increase as a result of the extension and which are more appropriately recovered from all customers through base rates. With respect to comments regarding accounting methodologies, the rules do not require the utilities to change their accounting methodologies. The rules address how much of the cost can be incorporated into the formula that is used to determine the amount of the deposit the applicant must pay. Therefore, the rules do not violate standard accounting principles. As such, no change will be made.

8. COMMENT: Rate Counsel comments the current definition of "distribution revenue," proposed to remain unchanged, defines gas distribution revenues as total revenues including sales and use tax (SUT), less charges, including SUT, for basic gas supply service. Similarly, for electric utilities, "distribution revenues" are defined as total revenues, including SUT, less revenues including the associated SUT for basic generation service and transmission charges. Rate Counsel states the revenues used to apply the multiplier include the Societal Benefit Charge and other surcharges unrelated to the recovery of the utilities' costs of providing electric or gas distribution service. Rate Counsel states this exacerbates the potential for refunds that unfairly shift costs to the utilities' other customers. Rate Counsel states that the recommended multipliers for electric and gas utilities should be applied to revenues from charges intended to recover the utilities costs to provide electric and gas distribution service.

RESPONSE: The Board is not proposing changes to the definition of distribution revenue as stated in the comment. The Board has based the formula for determining if an extension will furnish sufficient business on distribution revenue for clarity, transparency, and consistency. An applicant that is anticipating refunds associated with an extension to provide gas or electric service can easily trace the distribution revenue to customers' bills by simply removing the seven percent sales and use tax. Using a definition that removes the Societal Benefit Charge and "other surcharges unrelated to the recovery of the utilities' costs of providing electric or gas distribution service," as proposed by the commenter would reduce clarity as there is no such category of costs separated out on gas and electric customer bills.

9. COMMENT: South Jersey Gas (SJG) comments the definition of costs eliminates certain expenses that are directly and indirectly associated with the design and construction of a main extension. The exemption of these costs would modify a long standing BPU principal, which provides for the applicant paying its full and fair share and will shift some additional costs on all existing ratepayers in our system. These are legitimate costs incurred in providing an extension of service that should be included in the calculation of providing that service to the applicant. South Jersey Gas urges the BPU to reconsider this proposed modification.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 4.

10. COMMENT: Rate Counsel comments that the current definition of "plant and/or facilities," in N.J.A.C. 14:3-8.2 should be changed upon adoption to include "the collection of wastewater" in the enumeration of applicable services in the first sentence.

RESPONSE: The Board thanks the Division of Rate Counsel for its comments regarding the Main Extension Rules, and agrees with this change. Wastewater treatment services are already included within the definition of an extension. Therefore, inclusion of "the collection of wastewater" within the definition of plant and/or facilities will not substantively change the rule and is being made upon adoption.

N.J.A.C. 14:3-8.5(a)

11. COMMENT: NJAWC recommends deleting the proposed language "to apply the suggested formula set forth at N.J.A.C. 14:3-8.9, 8.10, 8.11, as applicable" and replace with the words "for resolution." Please see the specific comments on the referenced sections below. NJAWC does not believe that the suggested formula referred to in the proposed language can or should be the only way to resolve a disagreement over the costs to extend service as contemplated in these rules.

RESPONSE: The Board thanks the NJAWC for its comments regarding the suggested formula, however, the Board supports the existing language and no change will be made. The purpose of the Main Extension Rules is to allow for uniformity, fairness, transparency, and reduced confusion in the application of the rules. As such, the Board will use the applicable suggested formula, as defined in the rules, to settle any disagreement between the regulated entity (utility) and the applicant on the cost of the extension, a deposit, or a non-refundable contribution.

12. COMMENT: Rate Counsel comments that the Board must ensure the formulas suggested in the proposed rules are fair to the regulated utility, the applicant for utility service, and other ratepayers. Rate Counsel states this is important if the Board intends the formulas to be mandatory.

RESPONSE: The Board thanks the commenter for its comments. The Board agrees and believes that the suggested formula is the most uniform, fair, and transparent methodology for determining the amount of a deposit and subsequent refund for the regulated utility, the applicant for utility service, and other ratepayers.

N.J.A.C. 14:3-8.5(d)

13. COMMENT: NJAWC recommends deleting the proposed new language ("allowing the applicant, where practicable, to dig the portion of the trench located on the property to be served"). In NJAWC's

experience, allowing applicants to perform this task has been poor. Trenches have been dug in the wrong location, at the wrong depths, with improper widths and internal clearing, and/or at inopportune times. Allowing applicants to perform this part of the project has the potential to create public safety issues and could create complex liability issues.

Alternatively, NJAWC proposes the proposed language be modified to read as follows (additions in bold): "allowing the applicant, **at the sole and absolute discretion of the utility,** to dig **some or all of** the portion of the trench located on the property to be served." If the recommendation to delete the proposed language entirely is not accepted, the proposal to allow applicants to dig their own trenches "where practicable" is vague about when it would or would not be acceptable to the utility ultimately responsible for the maintenance of the installed assets. NJAWC believes the proposed language will impose an undue burden on utilities and the ratepayers of those utilities if the work by the applicant is inadequate or improperly performed.

14. COMMENT: NJNG comments the proposed addition in N.J.A.C. 14:3-8.5(d) allowing the applicant, where practicable, to dig a necessary trench on the subject property requires further clarification. NJNG agrees that regulated entities may, in specific circumstances, allow applicants to perform this task, NJNG states additional language should be added ensuring scheduling and logistical issues are coordinated by and between the utility and the applicant. Further clarification should also be inserted ensuring the applicant assumes full responsibility if complications arise as a result of final utility inspection. Additionally, the trench must be constructed according to utility site-specific construction plans and requirements, including, but not limited to, actual location and depth. Neither the utility nor other ratepayers should be responsible for costs associated with any damage occurring at the applicant's property resulting from applicant assuming responsibility for digging the trench or if any scheduling delays arise impacting the utility's overall service needs.

NJNG proposes the following additional language to subsection (d) (additions in bold): "Regulated entities, customers, applicants, developers, builders, municipal bodies, and other persons shall cooperate fully in order to facilitate construction of an extension at the lowest reasonable cost consistent with system reliability and safety. This includes sharing trenches, where practicable, allowing the applicant, where practicable, to dig the portion of the trench located on the property to be served, and coordinating scheduling and other aspects of construction to minimize delays and to avoid difficult conditions, such as frozen or unstable soils. **In performing the excavation of a portion of the trench the applicant's responsibilities include, but are not limited to, the following: performance of the excavation in accordance with utility/utilities standards, which standards shall be at the sole discretion of the utility/utilities and assumption of any and all damages or costs that may result from the applicant's performance or lack thereof of the excavation of a portion of any trench associated with the extension of utility service.** A municipality shall not impose an ordinance or other requirement that conflicts with this or which would prevent or interfere with another person's compliance with this subchapter.

15. COMMENT: Elizabethtown Gas comments that the proposed language in N.J.A.C. 14:3-8.5(d) allowing an applicant, where practicable, to dig the necessary trench on the subject property should be eliminated. Elizabethtown contends it is not practical to allow customers to assume responsibility for digging trenches and could create potential liability concerns. Trenches must be dug according to utility site-specific construction plans and requirements, including, but not limited to, actual location and depth. Assigning this responsibility outside the utility can create logistical issues and cause unnecessary delay. Should this language be retained in the final rules, Elizabethtown recommends additional language included to ensure these concerns are addressed. Moreover, it should be clear neither the utility nor other ratepayers should be responsible for costs associated with any damage that may occur at the applicant's property as a result of the applicant assuming responsibility for digging the trench or if any scheduling delays arise that impact the utility's overall service needs.

RESPONSE TO COMMENTS 13, 14, AND 15: The Board thanks the NJAWC for its comments regarding trenching; however, the rule clearly states that the regulated entities, customers, applicants, developers, builders, municipal bodies, and other persons shall cooperate fully in order to facilitate construction of an extension at the lowest reasonable cost consistent with system reliability and safety. This includes sharing trenches, where practicable, allowing the applicant, where practicable, to dig the portion of the trench located on the property to be served, and coordinating scheduling and other aspects of construction to minimize delays and to avoid difficult conditions, such as frozen or unstable soils. It is expected that all parties would work together to meet the aforementioned goals, and if not, as with any project, it would halt until the problem was corrected. As such, if the applicant has the capability to dig its own trenches in a safe, proper, and cost effective manner, that meets all required codes and standard industry practices, the applicant should be allowed to perform its own trenching where it is workable. If the trenching is not done correctly by the applicant, or if the applicant causes damages while excavating, the applicant is responsible for any costs or liabilities associated with these damages. Additionally, these rules do not require a utility to place an extension in a trench that is not in conformity with utility standards. The utility should inspect the trench prior to placing its extension to ensure that the trench conforms with applicable laws, rules or tariffs. The Board agrees with the commenter, therefore, the Board is proposing amendments published elsewhere in this issue of the New Jersey Register, stating that if an applicant elects to dig the portion of the trench located on the property to be served, the applicant is responsible for ensuring that the excavation is done in accordance with utility/utilities standards and that the resulting trench complies with utility/utilities standards. It further clarifies that utilities must inspect any excavation prior to placing utility lines in the trench.

N.J.A.C. 14:3-8.5(e)

16. COMMENT: New Jersey American Water recommends deleting the proposed new language. The regulations should require deposits based on the actual costs, and not on the proposed "suggested formula." Please also refer to the company's specific comments on the proposed revisions to N.J.A.C. 14:3-8.9, 8.10, and 8.11.

RESPONSE: The Board thanks the NJAWC for its comments regarding the Tariff requirements/restrictions for extensions and the suggested formula. The Board wants to ensure that the regulated entity's Tariff does not conflict with the rules regarding the deposits and refunds for extensions. The Board also believes that the suggested formula is still the most uniform, fair, and transparent methodology for determining the amount of a deposit and subsequent refund, for all parties. As such, no change will be made.

N.J.A.C. 14:3-8.5(f)

17. COMMENT: The EDCs comment that the new requirements inserted at N.J.A.C. 14:3-8.5(f) would fundamentally alter the EDCs'automated billing processes at significant expense to accommodate the level of detail requested. The EDCs argue the Board should reconsider the proposed additional requirements for detailed utility estimates in N.J.A.C. 14:3-8.5(f)1i, ii, and iii.

The EDCs state that during the stakeholder process, the 2011 Comment Letters expressed the serious concern that the specific, itemized information that the proposed rules would require the utilities to provide to an applicant, together with the extension cost-estimate, are unnecessary and do not necessarily comport with the methodologies or IT systems that the utilities use to develop estimates. The change contained in the proposed rules could increase costs, create customer confusion, spark a probable increase in customer complaints arising from such confusion, and increase the utilities' administrative burden with respect to such matters.

The EDCs comment that the proposed rules would require the utility to provide the number of units of each piece of equipment installed, as well as a per-unit cost for each, as part of each estimate. The EDCs state their experience with extensions suggests they already provide an adequate, detailed description of the extension work requested by the applicant/customer including materials and quantities, among other items. When an applicant seeks additional information, the EDCs provide a cost breakdown by major components: material, labor, and tax gross-up on rare occasions. This approach has been used for over a decade without

problems. The EDCs state that neither the stakeholder process, nor the Board's notice of proposal, provide any basis for finding the proposed additional detail is necessary or warranted, particularly given the high cost and level of effort (for example, IT system modifications) necessary to produce it. The EDCs state that few applicants ever request additional information and, the administrative burdens to provide the additional level of detail outweigh any possible benefits. Given the few incidents where developers sought extensions cannot resolve concerns with the respective utility, it would be unreasonable to require all ratepayers to incur the costs to integrate the systems required by the proposed language in N.J.A.C. 14:3-8.5(f).

Therefore, the EDCs recommend the Board revise proposed N.J.A.C. 14:3-8.5(f), so the utility would only be required to provide cost details on major components of the extension upon the applicant's request. The EDCs' suggestion regarding this proposed revision to the proposed rules is as follows additions in bold; deletions in brackets:

(f) If a regulated entity requires that the applicant pay a deposit or non-refundable contribution, the regulated entity shall first provide the applicant with all of the following information, in writing:

1. A**n** [detailed] estimate of the total cost of the extension; [including:

i. An itemization of the number of units of each item required to build the extension (for example, the number of feet of wire, feet of pipe, feet of conduit, feet of trench, number of transformers, number of valves, and number of labor hours);

ii. The cost per unit for each item listed under (f)1i above, multiplied by the number of units of that item; and

iii. The sum of all items in (f)1ii. This sum shall equal the total estimated cost of the extension;]

2. The estimated annual distribution revenue offset, if any;

3. The total amount of the deposit or non-refundable contribution required; and

4. If any portion of a deposit or non-refundable contribution is taxable under **the** Tax Reform Act of 1986 (TRA-86), and the regulated entity has decided to include the TRA-86 tax consequences in the deposit or non-refundable contribution:

i. The total deposit before taxes;

ii. The taxable portion of the deposit;

iii. The gross-up factor from N.J.A.C. 14:3-8.6(c); and

iv. The dollar amount of the tax consequences incurred on the deposit, from N.J.A.C. 14:3-8.6(d)5.

5. If the applicant requests additional details regarding the cost estimate in subsection (f)1 above, the regulated entity shall be required to provide cost details on major components of the extension (such as material and labor).

18. COMMENT: Elizabethtown Gas comments the proposed level of detail required in the amended N.J.A.C. 14:3-8.5(f), concerning information provided to an applicant in a construction deposit agreement is not necessary and, could increase costs and encourage customer confusion. Elizabethtown Gas currently includes a large portion of the detail listed in the proposed regulation, instead of amending the current regulation as proposed, the change should be limited to requiring that a utility provide additional information upon request. To date, only a small number of applicants have ever requested additional information and, Elizabethtown does not believe that the administrative burdens justify any benefits.

19. COMMENT: NJAWC recommends deleting the proposed new language in subsection (f) to the extent that providing the "detailed estimate" called for in paragraph (f)1 would have a deleterious effect on the competitive bidding process the company uses to produce the most cost effective solutions. Itemization at the level suggested by the proposed new language would potentially shrink the number of potential bidders over concerns that providing such information to potential bidders gives other bidders a competitive advantage in formulating bids for other projects.

20. COMMENT: SJG states the proposed level of detail applied to an applicant is not necessary and suggest the BPU reconsider this proposal. SJG addresses voluminous requests each year currently providing substantial information. Few requests for additional information are received and few complaints are fielded regarding inadequate or insufficient information. Requiring an additional level of detail will increase costs and impose administrative burdens on all utility companies with no benefit to the overall value of the main extension process.

21. COMMENT: NJAWC also recommends that the Board consider combining subsections (f) and (j) to better provide a clear method of estimating the cost of an extension. The level of detail required by subsection (j) should be more than adequate for any potential applicant, and that should be the model the Board uses for the extent of information it requires the regulated utilities to disclose.

RESPONSE TO COMMENTS 17 THROUGH 21: The Board thanks the commenter for its comments regarding the requirement to provide a detailed estimate of the total cost of the extension to applicants. A frequent complaint from applicants for main extension projects was the lack of detail in the regulated entity's estimated cost for the main extension. It is a normal business practice to receive a detailed estimate when purchasing any product or service. As such, the Board does not believe this to be an onerous requirement on the regulated entity, and believes that the information required in subsections (f) and (j) supports uniformity, fairness, and transparency in the estimating process. As far as confidential pricing information is concerned, bidders and the regulated entity should be able to enter into confidentiality agreements or other methods to protect sensitive pricing. As such, no change will be made.

N.J.A.C. 14:3-8.10 and 8.11

22. COMMENT: NJ HAND, Inc., a non-profit 501(c)3 developer of affordable housing for low and moderate income households in New Jersey, comments that it opposes the proposed changes and amendments to N.J.A.C. 14:3-8.10(d), (f), and (g) and challenge the impact analysis as being understated in terms of its actual impact on affordable housing projects. The amendments state in part:

"(d) As each customer begins receiving services, the regulated entity shall issue to the applicant an initial "startup" refund of a portion of the deposit [to the applicant]. For each customer, this customer "startup" refund shall be the estimated annual distribution revenue that will result from the customer, multiplied by 10X ("times") for gas, electric and telecommunications regulated entities, and 2.5 for water and wastewater regulated entities...

2. Estimate the annual distribution revenue that will be derived from the customer, and multiply it by 10 for gas, electric, and telecommunications regulated industries and 2.5 for water and wastewater regulated industries to obtain the estimated distribution revenue over the applicable multi-year period."

23. COMMENT: NJ Hand, Inc. comments the same change in multipliers is again proposed and/or reiterated with regard to N.J.A.C. 14:3-8.11(b), (c), (d), and (f).

NJ Hand, Inc. states the current refund multiplier for water and wastewater is 10. The Board is now proposing changing this to a multiplier of 2.5.

NJ Hand, Inc. states this change will have a financially devastating effect on the ability of non-profits to develop affordable housing. NJ Hand, Inc. states it is strongly opposed to this change and urges the Board to reject adoption of these proposed changes. NJ Hand, Inc. finds the impact analysis stated in the published notice of proposal understating the impact the rule changes will have on our projects and that of other similarly situated projects as described below.

RESPONSE TO COMMENTS 22 AND 23: The Board thanks the commenter for its comments regarding the rules, and specifically the multiplier of 2.5 used in the suggested formula for calculating the amount of the deposit and subsequent refund for a water/wastewater extension. However, the Board believes the 2.5 multiplier to be proper. The Board notes that the change from 10.0 times revenues to 2.5 times revenues is a return to the refund formula for main extensions that was in effect prior to the adoption of the Smart Growth Rules. The pre-Smart Growth refund formula was 2.5 times revenues for water and wastewater utilities. The Smart Growth Rules were designed to encourage growth in those parts of the State that were designated Smart Growth Areas, and to discourage growth in those parts of the State that were non-Smart Growth areas. Hence the 10 times refund formula for smart growth areas and zero for non-smart growth areas. The Board finds that the return to the 2.5 multiplier formula constitutes an equitable allocation of costs among a utility, its prospective customers, and its current customers. The 2.5 pre-

Smart Growth Rules refund formula was previously upheld by the NJ Supreme Court in *Van Holten Group v. Elizabethtown Water Co.*, 121 *N.J.* 48, 65 (1990) (*Van Holten*). As such, no change will be made.

24. COMMENT: Rate Counsel comments that the Board should solicit data from regulated utility companies to set realistic and fair refund formulas for each utility sector. Rate Counsel suggests a refund formula not to exceed two and one half times annual revenue for up to five years for water and wastewater.

RESPONSE: The Board thanks Rate Counsel for its support of the 2.5 multiplier. However, the Board believes that the 10-year period is more equitable than a five-year period for the water/wastewater industry, as it is more in-line with the expected revenue recovery period.

25. COMMENT: The EDCs state that should the Board adopt any aspect of this substantive rule revision, the EDCs request a minimum 18-month implementation period allowing all utilities sufficient time to modify their respective automated and manual processes to meet the new rule requirements. The EDCs state the need to consider such things as implementation impacts provide further support for their recommendation that the Board should rescind the current rule proposal to allow for the collaborative stakeholder dialogue the EDCs believe the Board intended to occur in its efforts to revise the Main Extension regulations following the *Centex* Decision.

RESPONSE: The Board disagrees with the commenters that a longer implementation period should be provided. The Board further believes that the rulemaking process has provided the commenters with sufficient notice to implement the rules.

26. COMMENT: The Lakewood Township Office of Economic Development (Lakewood) comments it has worked closely with NJAWC on several projects, creating a new paradigm for partnership between entities, which has enabled the expansion of the Township's affordable housing stock and planned residential and commercial development to service the Township's growing population. One of the most critical factors for infrastructure projects is the financing of the projects. A key factor in financing has been the service refunds that NJAWC provides back to the end user as services begin to flow. It has modeled its viability on the existing 10 times or 20 times refunds and that NJAWC has cooperated in allowing the Township to approach some of this as credits, resulting in the projects progression rather than waiting for a big financing to emerge. Directing these levels of refunds to be reduced in the future will have a devastating and chilling effect on key projects in the Township.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 22.

27. COMMENT: NJNG comments that the level of detail proposed in the rules concerning information provided to an applicant in a construction deposit agreement is not necessary and could increase costs and encourage customer confusion. NJNG currently includes a detailed list in the proposed rule. NJNG requests instead of amending the current regulation as proposed, amend the rule to reflect the utility providing additional information upon request. To date, only a *de minimus* number of applicants have requested additional information. NJNG does not believe that the administrative burden justify any potential benefits.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 17.

28. COMMENT: Mordechai Eichorn, broker/owner of Remax On The Move Realty, recommends the Board reassess the situation and maintain the current level of refunds, helping himself and many other developers and brokers in Lakewood to keep the market progressing.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 22.

29. COMMENT: The New Jersey Builder's Association (NJBA) comments that it supports the Board's rulemaking efforts in adopting new service extension regulations as required by the New Jersey Appellate Court.

RESPONSE: The Board thanks the NJBA for its support regarding the rulemaking.

30. COMMENT: The NJBA states it is opposed to reducing the multiplier used in the calculation formula for water/wastewater extensions from 10 to 2.5. NJBA states the reduction will either delay the refund to applicants for extensions or reduce the total refund received by the applicant. Extensions of facilities are public improvements being financed in part by private parties, and there is no reason why a greater portion of the costs for these public improvements should be borne by private parties.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 22.

31. COMMENT: Toll Brothers support the comments submitted by NJBA and seek to expand upon NJBA's comments pertaining to the proposed multipliers. The intent of the statutory powers granted to the BPU in N.J.S.A. 48:2-27 was that the BPU can require utilities to construct extensions at their cost when new customers are likely to generate enough revenue to justify the extension. Over time, the arrangement has shifted so that private parties now fund the extensions upfront and are then reimbursed in whole or in part as revenue is generated by new customers. Toll opposes the changes in N.J.A.C. 14:3-8.10 and 8.11 that would reduce the multiplier for water and wastewater regulated industries from 10 to 2.5. These entities have been able to reimburse at a rate of a 10 multiplier for over a decade without a significant detriment.

Water and sewer are the most expensive utilities for a builder to install. At the current reimbursement multiplier of 10, builders are often reimbursed after year one only about 50 percent of their water and sewer deposits. If the multiplier were reduced to 2.5, builders would receive a fraction of their costs in year one. The reduction in this reimbursement would be a substantial hardship to builders, particularly those who construct in low density areas. At a 2.5 multiplier, some builders will not be fully reimbursed (interest free) in 10 years. It is unjust for the building industry to bear the brunt of these costs when the utilities can reap the revenue benefits long after the 10 year reimbursement period has ended.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comment 22.

32. COMMENT: Toll Brothers seeks clarification as to the reimbursement rates for existing contracts with utilities, particularly, confirmation that the future phases of existing contracts would not be adversely impacted by the proposed legislation.

RESPONSE: These rules are prospective. The Board's current rules remain in effect until December 21, 2015, the effective date of this rule adoption, consistent with the Administrative Procedure Act. To the extent a deposit was collected using the then current formula, that formula shall apply to the refunding of that deposit. With regard to pending or existing contracts, applicable contract law would apply.

N.J.A.C. 14:3-8.6 – Deposits, contributions, and refunds – Tax Reform Act of 1986

33. COMMENT: NJAWC recommends the effective date of this proposed new section be extended from 30 days after the effective date of the rule to 90 days after the effective date of the rule, subject to additional fact finding by the Board to determine whether or not the scheme proposed is practicable. NJAWC recommends extending the deadline for any filings required by this section from 14 or 20 calendar days to 45 calendar days.

RESPONSE: The Board thanks the NJAWC for its comments regarding the rules, specifically the Tax Reform Act of 1986 (TRA-86) Gross-up Factor for deposits, contributions, and refunds for extensions. The Board is not proposing a "pilot program" on the Gross-up Factor, and as such there is no proposed "additional fact finding." The utilities have been aware of this notice of proposal for months, and should be prepared to meet the 30-day effective date.

In regards to NJAWC's comment regarding the filing deadlines of 14 and 20 calendar days, the Board believes the initial filing deadline of 20 days and the 14 days for filing any future changes, are not onerous. As such, no changes will be made.

N.J.A.C. 14:3-8.9(f)

34. COMMENT: Rate Counsel comments that the proposed rules also provide that, "In no event shall a regulated entity refund more than the total deposit amount to the applicant." Rate Counsel comments that this provision is important because excessively costly service extensions would not be cost-effective to the regulated utility company, and the limitation on refunds in the proposed rules appropriately considers the

interests of other ratepayers who ultimately would bear those costs. Accordingly, Rate Counsel comments that they support these provisions of the proposed rules.

RESPONSE: The Board thanks the commenter for its comment in support of the rules.

35. COMMENT: NJAWC comments that they have concerns regarding basing refunds on consumption, and strongly recommends the Board discontinue this methodology. Such a practice is inconsistent with the Water Supply Management Act Rules on conservation, specifically, N.J.A.C. 7:19-6.5, and otherwise provides applicants, under the Board's proposed rules, with the perverse incentive to use as much water as possible to generate the highest possible refund. (The same principle applies to the other utilities as well) In addition to the conservation and other environmental concerns, this kind of policy deters applicants from installing modern, efficient appliances, lighting, and insulation, which are likely more expensive than less efficient devices, but less likely to generate large refunds for the applicant. The Board should strongly consider a refund scheme where the utility provides a single, "up-front" refund to any applicant based on the utility's system-wide average annual residential consumption, and abandon the outdated, burdensome, and costly refund and true-up process based on actual annual consumption.

RESPONSE: The Board thanks NJAWC for its comments regarding the rules, specifically regarding deposit refunds. Refunds are based on revenue generated from the users added to the utility's customer base, through the new extension. Revenue is determined by the customer's actual usage, and is, therefore, the most accurate and fair method to determine refunds. As customers must pay for water usage, the Board does not believe that they would willingly waste water that they have to pay for, in hopes of getting higher deposit refunds. It is counter-productive, as it is normally the applicant that receives the deposit refund, not the new customer. Also, the rule clearly states that: "[i]n no event shall a regulated entity refund more than the total deposit amount to the applicant." As such, no changes will be made.

36. COMMENT: NJAWC states it understands the reasons for the proposed change to the consumption-based refund formula from 10 to 2.5 times the applicable annual revenue amount for water and wastewater utilities. NJAWC recognizes that if the proposed change goes into effect, it will result in real economic consequences for builders, developers, and individual residential customers seeking an extension of utility service. With this change, the Board-regulated companies will continue providing refunds to applicants subject to this rule, while municipal water purveyors, along with municipal and regional wastewater treatment providers will still be able to charge connection fees to those seeking new service. The proposed change in the refund formula might help mitigate the "refund v. connection fee" dichotomy between the public and the private providers.

RESPONSE: The Board thanks the commenter for its comment in support of the rules.

37. COMMENT: NJAWC comments that it has a concern with proposed subsection (d) regarding "additional customers who were not originally anticipated." The process outlined in this subsection is a complex and administratively burdensome refund process that NJAWC does not currently have the capability to manage. NJAWC states modifying the business systems, and/or creating a new business process, will impose real costs on NJAWC. Ultimately, these costs will be imposed on customers without creating any significant benefits.

RESPONSE: The Board thanks NJAWC for its comments regarding the rules, specifically regarding deposit refunds. The Board does not expect this to be a frequent occurrence; however it believes this requirement is the only fair way to handle such a situation if it arises. The Board further notes that the requirement to provide additional refunds when additional revenue is generated from an extension is not new, but required clarification. As such, no changes will be made.

38. COMMENT: Rate Counsel comments the prospective use of the proposed rules' refund multiplier of 10 times the estimated annual distribution revenue resulting from new customer extensions, for all new gas, electric, and telecommunications service extensions may excessively increase refunds above the suggested formulas under the pre-Smart Growth rules. Rate Counsel states this unfairly shifts main extension costs from the customers and developers who request a new service extension to the utility's other ratepayers, who may be required to subsidize utility investments that are not economic. Rate Counsel recommends that the rules include a refund formula multiplier appropriate for each utility industry sector. Rate Counsel suggests a reimbursement formula not to exceed 2.5 times the annual revenue for up to five years for water and wastewater, and not to exceed five times the annual revenue for up to five years for gas and electric.

RESPONSE: The Board thanks the commenter for its comments. The Board believes that the suggested formula is the most uniform, fair, and transparent methodology for determining the amount of a deposit and subsequent refund for all parties and the best way to determine if an extension will furnish sufficient business to justify the construction and maintenance of the extension. While the "pre-Smart Growth" rules that were in effect over 10 years ago utilized lower multipliers, the "pre-Smart Growth" rules also included provisions whereby gas and electric extensions would be provided free of charge if they did not exceed certain length provisions. In addition, in some cases, the Board approved gas and electric tariffs provided for higher multipliers than those used in the suggested formulae of the "pre-Smart Growth" rules. The Board finds that the 10 times multiplier formula for gas and electric extensions constitutes an equitable allocation of costs among a utility, its prospective customers, and its current customers.

N.J.A.C. 14:3-8.11 – Suggested Formula for Allocating Extension Costs – Single Residential Customer

39. COMMENT: NJAWC repeats its comments (addressed in other rule sections above) to the extent applicable to this section. In addition, the company notes under its "up-front" refund proposal, in many cases the individual residential customer applying for an extension under this formula may be able to obtain service from the water utility at a very low (or even no) out-of-pocket cost, depending on the applicant's proximity to existing infrastructure. Whether NJAWC's single up-front refund proposal is accepted by the Board, NJAWC recommends the Board consider an exception or waiver process for current residents located within or adjacent to an existing franchise area, but not currently served by the utility, in order to facilitate extending water and wastewater service to customers who would otherwise remain on private wells and septic systems.

RESPONSE: The Board thanks NJAWC for its comments regarding the rules. If a party that uses a private well or a septic system wants to connect to the utility's water or wastewater system, the Main Extension rules are in place to provide a fair process to enable the connection. As such, no changes will be made.

N.J.A.C. 14:3-8.11(b)2

40. COMMENT: Rate Counsel states that the proposed rules require estimates of the distribution revenue that will be derived from the customer, but do not state how to calculate that estimate. Rate Counsel suggests that the proposed rules do so.

RESPONSE: The Board thanks the commenter. The Board believes that the utilities have the data, the knowledge, and the experience to accurately estimate customer distribution revenue within a reasonable level of accuracy.

Additional Comments

41. COMMENT: United Telephone of New Jersey, Inc. d/b/a CenturyLink comments that main extensions are no longer subject to traditional rate of return regulation, but rather have been declared as competitive services by the Board under New Jersey's Telecommunications Act. CenturyLink states that the proposed regulations fail to limit their applicability excluding main extensions deemed competitive by the Board under the 1992 Act and thus, CenturyLink submits, must be revised. CenturyLink contends it is an incumbent local exchange carrier in the State of New Jersey and subject to a Plan for Alternative Regulation for certain services. CenturyLink states that the 1992 Telecommunications Act expressly prohibits the Board from regulating, fixing, or prescribing rates, charges, rate structures, terms, and conditions of competitive services. CenturyLink states that the Board must amend existing N.J.A.C. 14:3-8.1(d) (or proposed N.J.A.C. 14:3-8.1(b)), which addresses the scope and

applicability of the new rules, to add the following language as new paragraph 4:

"This subchapter does not apply to a telecommunications public utility with main extensions subject to competitive designation by the Board under the Telecommunications Act of 1992."

RESPONSE: The Board disagrees with the commenter's characterization of the Main Extension rules and its assertion that main extensions are competitive pursuant to the Telco Act of 1992. Main extensions are not "a service" but are a means for the provisioning of safe, adequate, and proper service by all regulated telephone providers, as required under the Board's rules. Thus, the main extension rules are not an attempt by the Board to set rates terms and conditions of a competitive service.

42. COMMENT: The EDCs comment that the scope and applicability provision at N.J.A.C. 14:3-8.1 should be modified to refer to a non-refundable contribution (in addition to a deposit) consistent with N.J.A.C. 14:3-8.6(a)1. The EDCs comment that the Board's proposed amendments to the "scope and applicability" provision of the proposed rules, adding new paragraphs 1 through 4, refers only to the possible requirement of a "deposit" and fails to mention the possible requirement of a non-refundable contribution required for an extension. The absence of the reference in this section of the proposed rules is in contrast to the reference in new N.J.A.C. 14:3-8.6(a)1 referring to "a deposit or non-refundable contribution."

The EDCs contend that the failure to use the term "non-refundable contribution" in the scope and applicability provision could be a source of confusion and complaint. Accordingly, for the sake of consistency and clarity, the EDCs recommend that N.J.A.C. 14:3-8.1(a)2 and 3 be modified to read as follows (additions in boldface):

"2. How much of the cost of an extension is paid by the applicant for the extension **(whether by deposit or by non-refundable contribution)**."

"3. Whether the regulated entity requires a deposit **or a non-refundable contribution**; and"

RESPONSE: Proposed N.J.A.C. 14:3-8.9(h) identifies portions of the deposit as "nonrefundable and shall constitute a contribution in aid of construction." As such, the existing language in the "scope and applicability" provision referencing deposits, includes what may otherwise be deemed a non-refundable contribution in aid of construction. Nonetheless, the Board will modify N.J.A.C. 14:3-8.1(a)3 by adding the requested language, which will now read: "Whether the regulated entity requires a deposit 'or a non-refundable contribution'; and"

43. COMMENT: The Board should clarify in its notice of adoption that the proposed rules as adopted are not applicable to pending or completed extension requests or projects. The EDCs share a concern of potential confusion regarding the applicability of the proposed rules to pending extension requests or completed extension projects and the deposit or non-refundable contribution arrangements associated with them. The EDCs assume, and request that the Board clarify in its notice of adoption that, other than with respect to the refunding provision of N.J.A.C. 14:3-8.14, the proposed rules as finally adopted apply only to extension requests arising after the effective date of the proposed rules, as long as such prior line extension requests or completed extension projects have been processed in accordance with existing regulations and the Board's orders following the *Centex* Decision.

RESPONSE: See the Response to Comment 32.

N.J.A.C. 14:3-8.14 Refunding Process and Reporting

44. COMMENT: The EDCs comment that the Board's refunding process and reporting requirements as found at proposed new N.J.A.C. 14:3-8.14 should be revised to reflect the EDCs' compliance with prior Board Orders and the Board's reporting requirements should be made less burdensome.

The EDCs state that New Jersey utilities have undertaken the refunding of contributions paid by applicants for utility extensions between March 20, 2005 and December 30, 2009, where the contribution, or a portion of the contribution, was not refunded because the extension was built to serve an area not designated for growth. Following the July Order, the EDCs complied with the Board's directive and commenced refunding to those applicants who responded in writing with supporting documentation and of their entitlement to the refund. Each EDC reported to the Board in February 2014, regarding its progress in reaching eligible applicants and in refunding the contributions.

45. COMMENT: The EDCs comment that response time has not been a limiting factor in any EDC's refunding of eligible applicants, so long as eligible applicants provide proper proof and supporting documentation. As of the date of these comments, requests to the EDCs for refunds have become infrequent. If and when they arise, such requests are addressed in accordance with the Board's directives.

Therefore, the EDCs question the need for another round of notices, which the proposed rules would consider to be a form of final notice. There is no finding or evidence that the costs and effort required by another round of notice(s) will produce greater results beyond what has already been achieved.

Instead, the EDCs comment that the proposed rules should recognize the New Jersey utilities' prior compliance with the Board's July Order and other Board directives and merely codify the refunding process to be followed when, and if, an eligible applicant (who has not already done so) applies for a refund.

46. COMMENT: The EDCs state the reporting requirements in the proposed rules compelling the regulated entities to begin reporting on refunding activities and progress 60 days after the effective date of the proposed rules and every 60 days thereafter for two years is unduly burdensome from an administrative perspective. If such reporting is necessary, the EDCs recommend that a non-substantive change to the regulation be made modifying the reporting obligation from 60 days to annual or semi-annual reporting (with a fixed end-of-month date, such as by January 15, 2016/17 for refunding through December 31, 2015/16).

RESPONSE TO COMMENTS 44, 45, AND 46: The Board thanks the commenter for its comments. On June 22, 2012, the Appellate Division ordered the Board to apply full retroactivity to the *Centex* Decision. The Court also indicated that its decision must be implemented through a rulemaking process pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.). While the Board issued an order on July 19, 2013, to ensure that the refund process was not delayed by the rulemaking process, the July 19, 2013, order stated that the rulemaking proceeding would address any final round of notice and appropriate deadlines for filing requests. The proposed rules do this. In addition, the Board believes that the refunding requirements and the reporting requirements in the proposed rules are necessary to ensure that reasonable measures are utilized to issue refunds to those applicants who are entitled to them pursuant to the Court's directives. The Board does not believe that the reporting requirements are overly burdensome. However, in light of the comments received, the Board will make a non-substantive change upon adoption to limit the frequency of the reports from every 60 days to semi-annual reporting. The Board is making this change in order to lessen the burden of the reporting requirements on the EDCs as requested by the EDCs in their comments. Making the frequency of the reports once every six months, rather than once every 60 days, will reduce the burden on the EDCs while still providing the Board with the needed information.

47. COMMENT: The NJBA supports the adoption of the N.J.A.C. 14:3-8.14, establishing long-awaited procedures by which the Associations' members receive refunds for utility extensions not in growth areas built between March 1, 2005 and December 30, 2009. The NJBA believes the rulemaking is largely necessary and consistent with the aforementioned decisions and will appropriately govern prospective service connections and extensions of service.

RESPONSE: The Board thanks the commenter for its support of the proposed rules.

48. COMMENT: SJG states its understanding of the importance of customers receiving refunds and the BPU staff receiving current information regarding the refund process. SJG agrees with the posting of information on its website, however, a time limit should be imposed. SJG suggested final notification be limited to a public notice. SJG's prior experience has proven to be unsuccessful, administratively costly, and burdensome. SJG suggests the 60-day reporting requirements be reduced to a lesser amount since the volume of activity will be small. SJG recommends BPU consider modifying its rulemaking requiring reports on a semi-annual basis.

RESPONSE: The Board thanks the commenter and notes that the issues raised here are addressed in the Response to Comments 44, 45, and 46.

49. COMMENT: Rate Counsel concurs that any refunds should only be paid to the person or developer that paid for the utility extension service. In addition, Rate Counsel concurs that the onus should be upon the person or entity that paid the deposit to apply for a refund, and do so by submitting its request to the relevant utility as proposed under N.J.A.C. 14:3-8.14(c)1.

RESPONSE: The Board thanks the commenter for its support of the proposed rules.

50. COMMENT: Rate Counsel comments that each utility should provide individual or public notice, depending on their ability to identify eligible customers.

RESPONSE: The Board thanks the commenter for its comment in support of the proposed rules.

51. COMMENT: Rate Counsel concurs with the general process for reviewing refund applications, in particular the recommendations that the parties first attempt to negotiate the amount of the refund. Rate Counsel recommends the Board require each applicant to agree to hold harmless and indemnify the utility against any competing claim for the refund by a third party.

RESPONSE: The Board agrees with the commenter. This change, however, is substantive and will have to be made through a separate rulemaking, which is published elsewhere in this issue of the New Jersey Register. The Board notes that its July 19, 2013, order requiring a party requesting a refund to hold harmless and indemnify the utility remains in effect.

52. COMMENT: Rate Counsel agrees that the applicant must submit a claim for the refund to the utility within a reasonable time. However, Rate Counsel suggests that the request should be submitted no later than six months from the effective date of the proposed rules, rather than within one year (365 days) as proposed.

RESPONSE: The Board believes the one-year period provides applicants with the necessary amount of time to submit a claim, therefore, no changes will be made.

53. COMMENT: NJAWC recommends that the reporting deadlines commence 90 days, rather than 60 days, after the effective date of the rules, and any reports required thereafter be made on a quarterly basis.

RESPONSE: The Board believes that commencing the reporting deadlines 60 days after the effective date of the amendments is the appropriate time frame for beginning reporting, therefore, no changes will be made to this reporting requirement. However, in light of the comments received, the Board will make non-substantive changes upon adoption to limit the frequency of the reports from every 60 days to semi-annual reporting, as discussed above.

Impact Statements

54. COMMENT: NJ Hand, Inc. states that drastically reducing the multiplier from 10 times to 2.5 times will have a negative social impact, as the neediest families will be denied safe, adequate, and affordable housing. Providing homes affordably priced for low and moderate income households is only feasible when development costs can be kept as low as possible. Additionally, these refunds serve merely to repay the developer for its own expended money, once new paying customers are brought online. This reduced cost is directly passed along as thousands of dollars in savings for each low and moderate-income homebuyer, with affordable prices. Reducing the multiplier in any fashion does NOT help other ratepayers to pay less, and keeping the multiplier at 10 is not "causing" other ratepayers to pay more. Conversely, reducing the multiplier does serve to make it impossible for non-profit developers to recoup enormous front-loaded costs, pushing sales prices to unaffordable levels thereby obviating the entire initiative.

NJ Hand, Inc. further comments that drastically reducing the multiplier will have a devastating economic impact, both by making it nearly financially impossible for non-profits to develop affordable housing, and forcing low and moderate income families to be unable to afford quality homes for their families. NJ Hand, Inc. states that drastically reducing the multiplier creates significant negative impact on jobs in two ways: As this change makes development and construction of affordable housing financially unfeasible or extremely difficult, many low and moderate income families who currently live and/or work in New Jersey will be forced to move, causing a negative impact to the already weak labor market within New Jersey. In addition, with many planned affordable housing construction projects becoming unfeasible, the loss of jobs in both the development and planning arena, as well as in the construction and subcontractor arenas is inevitable.

55. COMMENT: NJ Hand, Inc. comments that drastically reducing the multiplier from 10 to 2.5 will hinder utilities, as well as the non-profit customer developer, significantly limiting or eliminating the utilities and developers' ability to partner to make important community projects succeed, such as affordable housing. NJ Hand states it has been able to partner with NJAWC and Lakewood Township to negotiate Tri-Partite deals. A key factor in that financing had been the service refunds that NJAWC provides back, as services begin to flow. NJ Hand states it has modeled their viability on the existing 10 times or 20 times refunds and NJAWC has cooperated in allowing us to approach some of this as credits, allowing the progression of the project rather than to languish waiting for big financing to emerge. NJ Hand states that the proposed rules will hinder this flexibility, stalling or eliminating important projects.

56. COMMENT: The NJBA states it disagrees with the Housing Affordability Impact Analysis, as it fails to consider all components of the rulemaking proposal and the impact on all customers including applicants for extensions of regulated utilities.

57. COMMENT: NJ Hand, Inc. further states that reducing the multiplier from 10 to 2.5 will have a devastatingly negative impact on affordable housing in New Jersey. Non-profit developers that invest hundreds of thousands, or even millions, of dollars in extending water and wastewater services to then not be allowed an adequate means of recouping those costs, cannot provide homes affordable to low and moderate income families. Furthermore, the published analysis statement that there will be "… no impact ... because the rules pertain to the regulation of underground facilities operators performing excavation or demolition" completely ignores the reality that these underground excavation and demolition activities are all paid for by the applicant/developer. NJ Hand believes reducing the refund multiplier to 2.5 will have a devastatingly chilling effect on this and other key projects in New Jersey.

58. COMMENT: NJ Hand, Inc. comments that drastically reducing the multiplier from 10 to 2.5 will negatively impact housing production in Planning Areas 1 and 2, since developers will not be able to fully recoup their costs of production. NJ Hand, Inc. suggests refunds only be paid to an applicant only up until and never exceeding the dollar amount paid by the applicant as the extension deposit. Developers do not "make money' on these refunds. Allowing the multiplier to remain at 10 can mean the difference between a non-profit developer recouping its costs and allowing the project to succeed, or leaving the project with a great financial hardship.

Accordingly, NJ Hand, Inc. urges the Board not to change the current regulations and keep water and wastewater refund multipliers at their current levels of 10, at the very least for non-profit developers, and most especially, non-profit developers of affordable housing.

RESPONSE TO COMMENTS 54 THROUGH 58: The Board thanks the commenters and notes that the issues raised here are addressed in the Response to Comments 22 and 23. The Board also notes that it believes that the Housing Affordability Impact Analysis does consider all components of the rulemaking proposal and the impact on all customers, including applicants for extension. As such, no change will be made.

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 adopted amendments, repeals, and new rules 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 adopted amendments, repeals, and new rules.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

14:3-8.1 Scope and applicability

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

1. Whether an extension is placed overhead or underground;

2. How much of the cost of an extension is paid by the applicant for the extension;

3. Whether the regulated entity requires a deposit ***or a non-refundable contribution***; and

4. If a deposit is required, how much of the deposit will be refunded to the applicant, and on what schedule any refund will be made.

Recodify existing (d) and (e) as (b) and (c) (No change in text.)

(d) This subchapter does not provide for a calculation of the dollar amount that a regulated entity may charge for construction of an extension. This amount is determined based on tariffs submitted to the Board by each regulated entity and approved by the Board. Instead, this subchapter sets forth whether a regulated entity may require a deposit from an applicant for an extension, and if so how much of the deposit will be refunded to the applicant and on what schedule.

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

(f) In addition to this subchapter, extensions of service are also subject to other local, State, and Federal laws, including standards relating to water quality, promulgated by the New Jersey Department of Environmental Protection.

14:3-8.2 Definitions

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

. . .

"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 actual design, 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 mapping and design. This term does not include expenses for clerical, dispatching, supervision, or general office functions.

. . .

"Extension" means the construction or installation of plant and/or facilities to convey new service from existing or new plant and/or facilities to a structure or property for which the applicant has requested service. This term also means the plant and/or facilities themselves. 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 private property or a private right of way, including the wire, poles 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 5 below. An extension begins at the existing infrastructure and ends as follows:

1.-5. (No change.)

. . .

"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, ***the collection of wastewater,*** 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.

14:3-8.4 Requirement to put certain extensions underground

(a)-(f) (No change.)

(g) If underground electric or telecommunications service is required by this section, or an applicant desires underground electric or telecommunications service where it is not required under (d) or (e) above, the construction costs shall be distributed in accordance with this subsection, regardless of who actually performs the construction. 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. 14:3-8.5.

(h)-(l) (No change.)

14:3-8.5 General provisions regarding costs of extensions

(a) The cost that an applicant pays a regulated entity for an extension shall be determined by mutual agreement between the regulated entity and the applicant. If a regulated entity and an applicant cannot agree on the applicant's cost of an extension, a deposit, or a non-refundable contribution, either party may petition the Board to apply the suggested formula set forth at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable.

(b) Except for certain underground extensions covered by N.J.A.C. 14:3-2.1(f), an extension shall become the property of the regulated entity upon its completion. If an extension is paid for by an applicant in accordance with this chapter, a regulated entity shall include the extension in its contribution in aid of construction (CIAC) accounts, for accounting purposes only. The regulated entity shall record such a contribution in a manner consistent with the Uniform System of Accounts, 18 CFR Part 101, which is incorporated herein by reference in this subchapter. Amounts that a regulated entity receives in accordance with this subchapter, which are not refunded to an applicant, shall be credited to the appropriate plant account or accounts.

(c) The cost of an extension for which a regulated entity receives a deposit, or receives a non-refundable contribution, shall include the tax consequences incurred by the regulated entity as a result of receiving deposits under the Tax Reform Act of 1986, in accordance with N.J.A.C. 14:3-8.6.

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

(e) Each regulated entity shall submit for Board approval a proposed tariff containing charges for services, including installation of underground service. The regulated entity shall periodically submit updated tariffs on its own initiative or as requested by the Board. A tariff shall not require an applicant for an extension to pay a deposit or non-refundable contribution that is greater than would be required under the suggested formula at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable. A tariff shall not provide for a deposit refund that is less than would be required under the suggested formula at N.J.A.C. 14:3-8.9, 8.10, or 8.11, as applicable.

(f) If a regulated entity requires that the applicant pay a deposit or non-refundable contribution, the regulated entity shall first provide the applicant with all of the following information, in writing:

1. A detailed estimate of the total cost of the extension, including:

i. An itemization of the number of units of each item required to build the extension (for example, the number of feet of wire, feet of pipe, feet of conduit, feet of trench, number of transformers, number of valves, and number of labor hours);

ii. The cost per unit for each item listed under (f)1i above, multiplied by the number of units of that item; and

iii. The sum of all items in (f)1ii. This sum shall equal the total estimated cost of the extension;

2. The estimated annual distribution revenue offset, if any;

3. The total amount of the deposit or non-refundable contribution required; and

4. If any portion of a deposit or non-refundable contribution is taxable under Tax Reform Act of 1986 (TRA-86), and the regulated entity has decided to include the TRA-86 tax consequences in the deposit or non-refundable contribution:

i. The total deposit before taxes;

ii. The taxable portion of the deposit;

iii. The gross-up factor from N.J.A.C. 14:3-8.6(c); and

iv. The dollar amount of the tax consequences incurred on the deposit, from N.J.A.C. 14:3-8.6(d)5.

(g) (No change.)

(h) If a regulated entity chooses to construct an extension or portion of an extension with additional capacity over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may not require the applicant to pay for such additional capacity.

(i) (No change in text.)

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

1.-3. (No change.)

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

14:3-8.6 Deposits, contributions, and refunds – Tax Reform Act of 1986

(a) This section applies to a regulated entity that:

1. Collects a deposit or non-refundable contribution that is taxable in whole or in part under the Tax Reform Act of 1986 (TRA-86); and

2. Includes in the deposit or non-refundable contribution the associated tax consequences incurred by the regulated entity under TRA-86.

(b) If a regulated entity includes in a deposit or non-refundable contribution the tax consequences incurred under TRA-86, all deposit refunds shall also include the associated tax consequences incurred under TRA-86. Effective *[(30 calendar days after the effective date of this rule)]* ***January 20, 2016***, these tax consequences shall be determined in accordance with this section.

(c) The TRA-86 gross-up factor shall be:

1. Designed to incorporate the impact on the regulated entity of the initial tax payment on the deposit or non-refundable contribution;

2. Designed to incorporate the impact on the regulated entity of the future tax depreciation deductions that are associated with the extension; and

3. For a gas or electric regulated entity, calculated using the TRA-86 Gross-up Factor Template posted on the Board's website, http://www.state.nj.us/bpu.

(d) To determine the amount of a deposit or non-refundable contribution that includes the associated tax consequences incurred under TRA-86, the regulated entity shall:

1. Determine the base amount of the deposit or non-refundable contribution, before including the tax consequences of TRA-86;

2. Determine the portion of the base deposit or non-refundable contribution that is taxable under TRA-86. This is the "taxable amount";

3. Multiply the taxable amount determined under (d)2 above by the regulated entity's TRA-86 gross-up factor determined under (c) above. The result is the "grossed up" portion of the deposit or non-refundable contribution;

4. Add the grossed up amount determined under (d)3 above to any non-taxable portion of the base deposit or non-refundable contribution. The result is the total deposit or non-refundable contribution that the applicant will pay, inclusive of the regulated entity's associated tax consequences incurred under TRA-86; and

5. To determine the dollar amount of the regulated entity's associated tax consequences incurred under TRA-86, subtract the base amount of the deposit or non-refundable contribution, determined under (d)1 above, from the total deposit or non-refundable contribution that the applicant will pay, determined under (d)4 above.

(e) In determining the amount of a refund associated with a deposit that includes the associated tax consequences incurred under TRA-86, the regulated entity shall ensure that the percentage of the refund that is grossed up for taxes shall be equal to the percentage of the deposit that was grossed up for taxes. To do this, the regulated entity shall:

1. Determine the base amount of the refund (before considering the tax consequences of TRA-86), using the suggested formula at N.J.A.C. 14:3-8.9 or 8.11, as applicable;

2. Determine what percentage of the base deposit (from (d)1 above) is represented by the taxable amount of the deposit (from (d)2 above);

3. Multiply the percentage from (e)2 above by the base amount of the refund from (e)1 above. The result is the dollar amount of the refund that must be grossed up to include the tax consequences that the regulated entity incurred under TRA-86;

4. Multiply the dollar amount determined under (e)3 above by the same gross-up factor that was applied to the original deposit when it was collected, regardless of whether the deposit was collected before *[(30 calendar days after the effective date of this rule)]* ***January 20, 2016***. The result is the grossed up portion of the refund; and

5. Add the grossed up amount determined under (e)4 above to the remainder of the base refund amount, that is, the amount that was not grossed up for the tax consequences of TRA-86. The sum is the refund amount.

(f) Each regulated entity that collects deposits and non-refundable contributions that are taxable under TRA-86 shall comply with all of the following:

1. No later than *[(20 calendar days after the effective date of this rule)]* ***January 10, 2016***, each regulated entity that utilizes electric and/or gas depreciation rates shall calculate its TRA-86 gross-up factor pursuant to (c) above and file this factor, along with the completed TRA-86 Gross-up Factor Template, with the Board Secretary and the Director of the Board's Division of Energy. A regulated entity that utilizes both electric and gas depreciation rates shall file both of its gross-up factors and accompanying completed templates;

2. No later than *[(20 calendar days after the effective date of this rule)]* ***January 10, 2016***, each regulated entity that utilizes water and/or wastewater depreciation rates shall calculate its TRA-86 gross-up factor pursuant to (c) above and file this factor, along with a detailed calculation of this factor with the Board Secretary and Director of the Board's Division of Water;

3. No later than *[(20 calendar days after the effective date of this rule)]* ***January 10, 2016***, each regulated entity that utilizes telecommunication depreciation rates shall calculate its TRA-86 gross-up factor pursuant to (c) above and file this factor along with a detailed calculation of this factor with the Board Secretary and Director of the Board's Division of Telecommunications; and

4. If a regulated entity's TRA-86 gross-up factor changes, for example if the capital structure, tax rates, or deprecation rates change, the regulated entity shall calculate its new TRA-86 gross-up factor pursuant to (c) above and file this factor along with the template or detailed calculation as applicable, within 14 calendar days of the change.

14:3-8.7 through 8.8 (Reserved)

14:3-8.9 Suggested formulae for allocating extension costs—general provisions

(a) (Reserved)

(b) If a regulated entity or applicant petitions the Board to apply the suggested formula in accordance with N.J.A.C. 14:3-8.5(a), to an extension to serve any type of development other than a single residential customer, Board staff shall apply the formula at N.J.A.C. 14:3-8.10. If a regulated entity or applicant requests that Board staff apply the suggested formula to an extension to serve only a single residential customer, Board staff shall apply the formula in N.J.A.C. 14:3-8.11.

(c) For both types of formulae (single residential customer and other), the regulated entity may require the applicant to provide a deposit. The amount of the deposit shall be determined according to the provisions for multi-unit developments at N.J.A.C. 14:3-8.10 or for single residential customers at N.J.A.C. 14:3-8.11, as applicable. The regulated entity shall

then construct the extension, and shall refund the portions of the deposit that are refundable under (g) below according to the formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

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

1. The regulated entity shall estimate the cost of the extension in accordance with the applicable tariff, and shall add the tax consequences incurred by the regulated entity under the Tax Reform Act of 1986 as a result of receiving the deposit, as detailed in N.J.A.C. 14:3-8.6;

2.-4. (No change.)

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

(f) (No change.)

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

1. (No change.)

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

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

4. Any tax consequences that are included in a deposit pursuant to N.J.A.C. 14:3-8.6.

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

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

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

14:3-8.10 Suggested formula for allocating extension costs—multi-unit or nonresidential development

(a) This section governs how Board staff will apply the suggested formula to the cost of an extension that is not covered by the provisions for extensions to a single residential customer at N.J.A.C. 14:3-8.11. The requirements in this section apply in addition to the general provisions for the suggested formulae at N.J.A.C. 14:3-8.9. This section does not address how deposits, non-refundable contributions, and refunds will be grossed up to reflect the tax consequences incurred by the regulated entity under the Tax Reform Act of 1986, which is addressed in N.J.A.C. 14:3-8.6. This section does not set forth the cost of an extension, but merely governs the allocation of those costs between the utility and the applicant for the extension.

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

(c) For purposes of calculating the amount of the deposit, the development for which service is requested shall be determined by reference to the subdivision map approved by the applicable local authorities. If a development is to be approved and constructed in phases, the applicant shall indicate which phases are to be treated as separate developments prior to commencement of installation of service for purposes of determining the deposit and applying the suggested formula. Any cost estimates shall be recalculated to reflect the division of the project into phases prior to commencement of the installation of service and new cost estimates shall be provided.

(d) As each customer begins receiving services, the regulated entity shall issue to the applicant an initial "startup" refund of a portion of the deposit. For each customer, this customer "startup" refund shall be the estimated annual distribution revenue that will result from the customer, multiplied by 10 for gas, electric and telecommunications regulated entities, and 2.5 for water and wastewater regulated entities. If additional customers who were not originally anticipated are supplied from this extension, the regulated entity shall:

1. Estimate the actual cost of the extension required to bring service to the customer from the nearest existing infrastructure;

2. Estimate the annual distribution revenue that will be derived from the customer, and multiply it by 10 for gas, electric, and telecommunications regulated industries and 2.5 for water and wastewater regulated industries to obtain the estimated distribution revenue over the applicable multi-year period;

3. Subtract the estimated cost of the extension determined under (d)1 above from the applicable multi-year period distribution revenue determined under (d)2 above;

4. Refund the amount determined in (d)3 above to the original applicant when the customer begins receiving service, if the amount determined in (d)3 above is a positive number. This "startup" refund shall be in addition to the annual refunds described in this section; and

5. Provide additional refunds to the original applicant if the actual annual distribution revenue from these additional customers exceeds the estimated annual distribution revenue from these customers. These additional refunds shall be made by including these customers in the refund calculations made pursuant to (f) and (g) below.

(e) (No change.)

(f) The first annual refund shall be calculated by multiplying by 10 for gas, electric, and telecommunication regulated entities, and 2.5 for water and wastewater regulated entities the difference between:

1.-2. (No change.)

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

1.-3. (No change.)

4. If (g)2 above is less than (g)1 above, multiply the difference derived under (g)3 above by 10 for gas, electric, and telecommunication regulated entities, and 2.5 for water and wastewater regulated entities to determine the annual refund.

(h) (No change.)

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

EXAMPLE A1

Suggested formula applied to an extension to provide gas, electric, telecommunications service, and water and wastewater to a 10-unit residential development

Each year produces more revenue

	When?	Action	Amount for Gas, Electric, and Telecom	Amount for Water and Wastewater
Year one	Before construction	Applicant provides deposit.	$20,000.00	$5,000.00
	First customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from first customer ($430.00) by 10 for gas, electric, and telecommunications regulated entities, and by 2.5 for water and wastewater regulated entities.	$4,300.00	$1,075.00
	After first customer's startup refund	Amount of deposit remaining with regulated entity.	$15,700.00	$3,925.00
	Second customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from second customer ($500.00) by 10 for gas, electric, and telecommunication regulated entities, and 2.5 for water and wastewater regulated entities.	$5,000.00	$1,250.00
	After second customer's startup refund	Amount of deposit remaining with regulated entity.	$10,700.00	$2,675.00
End of year one	One year has passed since deposit was provided	Regulated entity gives applicant first annual refund, based on customers served for all of year one. Refund is calculated by multiplying by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities the difference between: i. The actual distribution revenue from customer 1 ($480.00); and ii. The original estimate of annual distribution revenue from customer 1 ($430.00). This difference is $50.00.	$500.00	$125.00
Year two	After first annual refund	Amount of deposit remaining with regulated entity.	$10,200.00	$2,550.00
	Third customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from third customer ($400.00) by 10 for gas, electric, and telecommunication regulated entities, and 2.5 for water and wastewater regulated entities.	$4,000.00	$1,000.00
	After third customer startup refund	Amount of deposit remaining with regulated entity.	$6,200.00	$1,550.00
End of year two	Two years have passed since deposit was provided	Regulated entity gives applicant second annual refund, based on customers that were served for all of year two. Refund is calculated as follows: i. Sum the actual distribution revenue from customer 1 ($520.00) and customer 2 ($580.00). This results in a total of $1,100; and ii. Determine the sum of: • The actual distribution revenue used in calculating the most recent annual refund ($480.00); and • The original estimated annual from customer 2 ($500.00); • This results in a total of $980.00; iii. Subtract ii above from i above, resulting in a difference of $120.00; and iv. Multiply the difference derived under iii above by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$1,200.00	$300.00

Year three	After second annual refund	Amount of deposit remaining with regulated entity.	$5,000.00	$1,250.00
	Fourth customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from fourth customer ($350.00) by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$3,500.00	$875.00
	After fourth customer startup refund	Amount of deposit remaining with regulated entity	$1,500.00	$375.00
End of year three	Three years have passed since deposit was provided	Regulated entity gives applicant third annual refund, based on customers that were served for all of year three. Refund is calculated as follows: i. Sum the actual distribution revenue from customer 1 ($550.00), customer 2 ($610.00), and customer 3 ($550.00). This results in a total of $1,710; and ii. Determine the sum of: • The actual distribution revenue used in the calculations of the most recent annual refund ($1,100); and • The original estimated annual revenue from customer 3 ($400.00); • This results in a total of $1,500; iii. Subtract ii from i above, resulting in a difference of $210.00; and iv. Multiply the difference derived under iii above by 10 for gas, electric, and telecommunication regulated entities, resulting in an annual refund of $2,100. Since $2,100 exceeds the remaining deposit, the regulated entity gives the applicant the remainder of the deposit ($1,500). For water and wastewater regulated entities, multiply the difference derived under iii above by 2.5, resulting in an annual refund of $525.00. Since $525.00 exceeds the remaining deposit, the regulated entity gives the applicant the remainder of the deposit ($375.00). Transaction is complete.	$1,500.00	$375.00

EXAMPLE A2

Suggested formula applied to an extension to provide gas, electric, telecommunications service, and water and wastewater to a 10-unit residential development

Second year produces less revenue

	When?	Action	Amount for Gas, Electric, and Telecom	Amount for Water and Wastewater
Year one	Before construction	Applicant provides deposit.	$20,000.00	$5,000.00
	First customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from first customer ($430.00) by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$4,300.00	$1,075.00
	After first customer's startup refund	Amount of deposit remaining with regulated entity.	$15,700.00	$3,925.00
	Second customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from second customer ($500.00) by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$5,000.00	$1,250.00
	After second customer's startup refund	Amount of deposit remaining with regulated entity.	$10,700.00	$2,675.00

End of year one	One year has passed since deposit was provided	Regulated entity gives applicant first annual refund, based on customers served for all of year one. Refund is calculated by multiplying by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities, the difference between: i. The actual distribution revenue from customer 1 ($480.00); and ii. The original estimate of annual distribution revenue from customer 1 ($430.00). This difference is $50.00.	$500.00	$125.00
Year two	After first annual refund	Amount of deposit remaining with regulated entity.	$10,200.00	$2,550.00
	Third customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from third customer ($400.00) by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$4,000.00	$1,000.00
	After third customer startup refund	Amount of deposit remaining with regulated entity.	$6,200.00	$1,550.00
End of year two	Two years have passed since deposit was provided	Regulated entity gives applicant second annual refund, based on customers that were served for all of year two. Refund is calculated as follows: i. Sum the actual distribution revenue from customer 1 ($520.00) and customer 2 ($370.00). This results in a total $890.00; and ii. Determine the sum of: • The actual distribution revenue used in calculating the most recent annual refund ($480.00); and • The original estimated annual revenue from customer 2 ($500.00) for gas, electric, and telecommunications, and ($500.00) for water and wastewater; • This results in a total of $980.00; iii. Subtract ii above from i above, resulting in a difference of -$90.00; and iv. Because -$90.00 is less than 0, no refund is provided.	0.00	0.00
Year three	After second annual refund	Amount of deposit remaining with regulated entity	$6,200.00	$1,550.00
	Fourth customer comes online	Regulated entity gives a customer startup refund to applicant, calculated by multiplying estimated annual distribution revenue from fourth customer ($350.00) by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.	$3,500.00	$875.00
	After fourth customer startup refund	Amount of deposit remaining with regulated entity	$2,700.00	$675.00

End of year three	**Three years have passed since deposit was provided**	**Regulated entity gives applicant third annual refund, based on customers that were served for all of year three. Refund is calculated as follows:** **i. Sum the actual distribution revenue from customer 1 ($550.00), customer 2 ($610.00), and customer 3 ($550.00). This results in a total of $1,710.00; and** **ii. Determine the sum of:** **• The actual distribution revenue used in the calculation of the most recent annual refund ($480.00);** **• The original estimated annual revenue from customer 2 ($500.00) and customer 3 ($400.00);** **• This results in a total of $1,380.00;** **iii. Subtract ii from i above, resulting in a difference of $330.00; and** **iv. Multiply the difference derived under iii above by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities, resulting in an annual refund of $3,300.00 for gas, electric, and telecommunications. For water and wastewater, the annual refund would be $825.00.** **Since $3,300.00 exceeds the remaining deposit, the regulated entity gives the applicant the remainder of the deposit ($2,700.00) for gas, electric and telecommunications customers. For water and wastewater customers, since $825.00 exceeds the remaining deposit of $675.00, the regulated entity gives the applicant $675.00.** **Transaction is complete.**	**$2,700.00**	**$675.00**

14:3-8.11 Suggested formula for allocating extension costs—single residential customer

(a) The requirements in this section apply in addition to the requirements of N.J.A.C. 14:3-8.9. This section addresses how Board staff will apply the suggested formula to the costs of an extension that will serve only a single residential customer. This section does not address how deposits, non-refundable contributions, or refunds will be grossed up to reflect the tax consequences incurred by the regulated entity under the Tax Reform Act of 1986, which is addressed in N.J.A.C. 14:3-8.6.

(b) To determine the deposit required for an extension subject to this section, the regulated entity shall:

1. (No change.)

2. Estimate the annual distribution revenue that will be derived from the customer, and multiply it by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities, to obtain the estimated distribution revenue over the applicable multi-year period; and

3. Subtract the estimated applicable multi-year period distribution revenue determined under (b)2 above from the estimated cost of the extension determined under (b)1 above. This is the amount of the deposit.

(c) One year after the customer begins receiving service, the regulated entity shall calculate the distribution revenue derived from the customer's first year of service. If the year one distribution revenue is less than the estimated annual distribution revenue that was used in (b)2 above to determine the deposit, the regulated entity is not required to provide a refund. If the year one distribution revenue exceeds the estimated annual distribution revenue, the regulated entity shall provide a refund to the applicant. The amount of the refund shall be the difference between the estimated and annual year one distribution revenues, multiplied by 10 for gas, electric, and telecommunication regulated entities, and by 2.5 for water and wastewater regulated entities.

(d) Two years after the customer begins receiving service, the regulated entity shall calculate the distribution revenue derived from the customer's second year of service. The regulated entity shall provide a refund to the applicant if the actual distribution revenue from the customer's most recent year of service exceeds the greater of the amounts in (d)1 and 2 below. The amount of the refund shall be 10 for gas, electric, and telecommunication regulated entities, and 2.5 for water and wastewater regulated entities, multiplied by the difference between the distribution revenue from the most recent year of service and the higher of the following:

1.-2. (No change.)

(e) (No change.)

(f) If, during the 10-year period after a single residential customer begins receiving service, additional customers connect to the extension and the regulated entity still holds a portion of the deposit from the original applicant, the regulated entity shall increase the refunds to the original applicant to reflect the distribution revenue from the additional customers. For a water main extension, this additional distribution revenue shall include amounts paid by a municipality for fire protection during the year. For each of these additional customers, the regulated entity shall:

1. Estimate the actual cost of the extension required to bring service to the customer from the nearest existing infrastructure;

2. Estimate the annual distribution revenue that will be derived from the customer, and multiply it by 10 for gas, electric, and telecommunications regulated entities and 2.5 for water and wastewater regulated entities to obtain the estimated distribution revenue over the applicable multi-year period;

3. Subtract the estimated cost of the extension determined under (f)1 above from the applicable multi-year period distribution revenue determined under (f)2 above;

4. Refund the amount determined in (f)3 above to the original applicant when the customer begins receiving service if the amount determined in (f)3 above is a positive number. This "startup" refund shall be in addition to the annual refunds described in this section; and

5. Provide additional refunds to the original applicant if the actual annual distribution revenue from these additional customers exceeds the estimated annual distribution revenue from these customers. These additional refunds shall be made using the methodology described in (c) above.

(g) See Example B below for an illustration of the use of the suggested formula for a single residential customer:

EXAMPLE B

Suggested formula applied to an extension to provide gas, electric, water and wastewater, or telecommunications service to a single residential customer

When?	Action	Amount for Gas, Electric, and Telecommunications	Amount for Water and Wastewater
Before construction	Applicant gives deposit, determined as follows, to regulated entity: 1. Estimate total cost of extension ($7,500.00); 2. Estimate annual distribution revenue ($500.00); 3. Multiply annual distribution revenue by 10 for gas, electric, and telecommunications ($5,000.00); and 2.5 for water and wastewater ($1,250.00); 4. Subtract item 3 from item 1 to determine deposit.	$2,500.00	$6,250.00
One year after Customer comes online	If first year distribution revenue is less than estimated annual distribution revenue ($500.00), no refund.	$250.00	$62.50
	If first year distribution revenue ($525.00) is more than estimated annual distribution revenue ($500.00), regulated entity gives first refund to applicant. Refund is determined as follows: 1. Subtract estimated annual distribution revenue ($500.00) from first year distribution revenue ($525.00); and 2. Multiply item 1 ($25.00) by 10 for gas, electric, and telecommunications ($250.00), and 2.5 for water and wastewater ($62.50).		
Amount of deposit remaining with regulated entity after first refund		$2,250.00	$6,187.50
Two years after customer comes online	If second year distribution revenue is less than first year revenue ($525.00), no refund.	$500.00	
	If second year distribution revenue ($575.00) is more than the greater of either the first year distribution revenue ($525.00), or the estimated annual distribution revenue used as the basis for the initial deposit computation ($500.00) regulated entity gives second refund to applicant. Refund is determined as follows: 1. Subtract the greater of either the first year distribution revenue ($525.00) or the estimated annual distribution revenue used as the basis for the initial deposit computation ($500.00) from second year distribution revenue ($575.00); and 2. Multiply item 1 ($50.00) by 10 for gas, electric, and telecommunications ($500.00), and 2.5 for water and wastewater ($125.00).		
Amount of deposit remaining with regulated entity after second refund		$1,750.00	$6,062.50

Continue with this process each year, until 10 years has passed or the deposit is completely refunded, whichever comes first.

14:3-8.12 (Reserved)

14:3-8.14 Refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009 to serve areas not designated for growth

(a) This section governs refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009, to serve areas not designated for growth. (I/M/O The Board's Main Extension Rules N.J.A.C. 14:3-8.1 Et Seq., Docket No. AX12070601, Dated July 19, 2013 ("July Order").)

(b) Notice to customers shall be as follows:

1. The regulated entities shall provide individual or public final notice, depending upon the specific regulated entity's ability to identify eligible applicants, and consistent with the method used by the regulated entity in complying with the I/M/O The Board's Main Extension Rules N.J.A.C. 14:3-8.1 Et Seq., Docket No. AX12070601, Dated July 19, 2013 (July Order), to notify persons or entities that paid contributions for extensions built to serve areas not designated for growth between March 20, 2005 and December 30, 2009, that they may be entitled to a refund of all, or a portion of the contribution.

2. This final notice of refunds shall be made by all regulated entities, whether by individual or public notice, by *[(within 60 days of the effective date of this rule)]* ***February 19, 2016***.

3. Each regulated entity must designate a contact person for applicants to contact regarding refund requests.

4. Each regulated entity must post on its website, instructions and contact information for filing for refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009, to serve areas not designated for growth.

(c) The refund process is as follows:

1. Parties seeking refunds under this section must submit a written request for a refund of their contribution to the regulated entity to which they paid the contribution by no later than *[(365 days after the effective date of this rule)]* ***December 20, 2016***, in order to qualify for said refund. The Board may authorize refunds for requests that are filed after this date, if the Board finds that there is good cause shown.

2. The regulated entity and the party requesting the refund must agree upon the appropriate recipient of the refund, which shall be the person, or entity, that paid the original contribution, or the appropriate successor entity as documented in (c)3 below.

3. Where necessary due to changes in control, ownership, assignment, or bankruptcy, the party requesting the refund must provide sufficient evidence, with supporting affidavits of entitlement to the regulated entity.

4. The regulate entity and the party requesting the refund must agree upon the appropriate amount of the refund. The refund shall be equal to the amount that would have been refunded had the extension been built to serve an area designated for growth under the rules in existence at the time the contribution was paid. Under no circumstances shall a regulated entity refund an amount in excess of a contribution paid to the regulated entity for an extension. The refund amount shall not include interest.

5. The regulated entity may require the party requesting the refund to submit proof of payment of the original contribution prior to issuing the refund. For example, the party requesting the refund may be required to provide a copy of the cancelled check for the contribution, a copy of a receipt from the regulated entity, or a bank record.

6. Within 30 days of receiving a refund claim, the regulated entity shall notify the applicant in writing that they received the claim. This notification shall indicate that the regulated entity accepts the claim and deems it complete or it shall identify any deficiencies in the claim and notify the applicant that they have 60 days to correct any deficiencies in the claim. The regulated entity shall issue refund payments to the applicant within 30 days of deeming a claim to be complete.

7. If the parties cannot agree as to the amount, or appropriate recipient, of a refund, the party requesting the refund may petition the Board for an appropriate remedy pursuant to N.J.A.C. 14:1-1.5(b). Such party must prove that they are entitled to the refund and demonstrate proof of payment of the contribution. The Board will look to the refund formula for extensions in existence at the time of the extension request to determine the amount that would have been refunded if the extension were built to serve an area designated for growth.

(d) Reporting Requirements. Commencing *[(60 days after the effective date of this rule)]* ***February 19, 2016,*** and every *[60]* ***180*** days thereafter until *[(two years after effective date of this rule)]* ***December 21, 2017***, each regulated entity shall file a report with the Board Secretary and the director of the appropriate Board of Public Utilities' division (Water, Energy, or Telecommunications), providing an update on the regulated entity's refund process. Each regulated entity shall complete the below chart and include it in the report. For the "Total disputed refund requests" column, the regulated entity shall provide and identify two dollar amounts in the $ Amount row, specifically, the total dollar amount requested by the applicants and the total dollar amount that the regulated entity believes is due to the applicants. The report shall also include a narrative describing the status of the regulated entity's refund process.

Regulated Entity Name Refunds of Contributions Paid for Extensions Built From March 20, 2005 Through December 30, 2009 to Serve Areas Not Designated For Growth Status Report, Dated _____						
	A	B	C	D	E	F
	Total refunds required	Total requests for refunds	Total refunds paid to date	Total of all refunds due, but not paid (A – C)	Total refunds requested, but not paid (B - C)	Total disputed refund requests
Quantity (Number of refunds, requests, etc.)						
$ Amount (Dollar amount of refunds, requests, etc.)						

SUBCHAPTER 10. (RESERVED)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

General Policies and Procedures

Readoption with Amendments: N.J.A.C. 18:2

Adopted Repeals and New Rules: N.J.A.C. 18:2-2.8 and 3.6

Proposed: August 3, 2015, at 47 N.J.R. 1921(a).
Adopted: November 23, 2015, by Dennis Schilling, Acting Director, Division of Taxation.
Filed: November 24, 2015, as R.2015 d.207, **without change**.

Authority: N.J.S.A. 54:49-12.5 and 54:50-1.

Effective Dates: November 24, 2015, Readoption;
December 21, 2015, Amendments, Repeals, and New Rules.
Expiration Date: November 24, 2022.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the Division of Taxation's rulemaking authority is granted by the operative provisions of the State Uniform Procedure Law, N.J.S.A. 54:49-12.5 and 54:50-1, and is not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 18:2.

Full text of the adopted amendments and new rules follows:

SUBCHAPTER 1. FORMS

18:2-1.1 Reproduction of forms

(a) Subject to conditions and requirements in (b) and (c) below and electronic filing requirements, the Director will accept, for filing purposes, reproductions of printed return forms, privately designed and printed, and/or computer-generated and computer-prepared forms, in lieu of the official forms printed and furnished by the Director.

(b) By letter to the Director, Division of Taxation, privately designed and printed and/or computer-generated and computer-prepared forms must be submitted for approval prior to use. Approval of such a form is at the Director's sole discretion, so long as the form does not interfere with either the Division of Revenue and Enterprise Services' or Division of Taxation's procedures in any way. If a reproduction is not approved, an explanation of the areas in which the form is deficient will be enclosed with the letter rejecting the reproduction. Approval of a reproduction of a tax form is valid for one tax year. If the official tax form has not changed since the year of approval, other than date changes and minor editorial changes, in which case, approval is valid until the official tax form