

NEW JERSEY BOARD OF PUBLIC UTILITIES

Companion Proposal of Amendments

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

May 19, 2008

PUBLIC UTILITIES.....	1
Summary.....	2
Social Impact.....	5
Economic Impact.....	5
Federal Standards Statement	5
Jobs Impact.....	5
Agriculture Industry Impact.....	6
Regulatory Flexibility Analysis.....	6
Smart Growth Impact	6
SUBCHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS	7
14:3-1.1 Definitions	7
14:3-1.3 Tariffs	7
SUBCHAPTER 2. PLANT	7
14:3-2.1 Plant construction.....	7
14:3-2.5 Identification of utility equipment	8
SUBCHAPTER 3. SERVICE	8
14:3-3.2 Customer applications for service	8
14:3-3.7 Interruptions of service.....	9
SUBCHAPTER 3A. Discontinuance and restoration of service.....	9
14:3-3A.2 Discontinuance for nonpayment	9
14:3-3A.4 Additional notice requirements for discontinuance of residential and special customers.....	10
14:3-3A.5 Winter termination program for residential electric and gas service.....	10
SUBCHAPTER 4. METERS.....	11
14:3-4.6 Adjustment of charges for meter error.....	11
SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE.....	12
14:3-7.1 Billing general provisions	12

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

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

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

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

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

BPU Docket Number: AX08030165

Proposal Number: PRN 2008-

Comments may be submitted through July 18, 2008 through either of the following methods:

- Electronically, in Microsoft WORD format, or in a format that can be easily converted to WORD, by e-mailing them to the following e-mail address: rule.comments@bpu.state.nj.us; or
- On paper to:
Kristi Izzo, Board Secretary
New Jersey Board of Public Utilities
Attention Docket Number: AX08030165
Two Gateway Center
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities is herein proposing amendments to its rules at N.J.A.C. 14:3, which address all utilities. These rules provide basic requirements for all utilities regulated by the Board, which include water, wastewater, electricity, gas, and telephone utilities.

These amendments implement changes the Board determined were necessary based on comments it received on its proposed readoption of these rules. The readoption was proposed in the October 1, 2007 issue of the New Jersey Register, at 39 N.J.R. 4077(b). The adoption appears elsewhere in this issue of the New Jersey Register. This companion proposal incorporates the changes that the Board would have made on adoption but could not because they were substantive changes that required additional notice and comment.

Section-by-section summary of the proposed amendments:

In N.J.A.C. 14:3-1.1, the definition of “business hours” is proposed to be expanded by one hour, so that a utility’s required business hours would end at 5:00 p.m. under the proposed amendments, as opposed to 4:00 p.m. under the rules as readopted. The Board believes that this will provide better customer service without imposing an undue

burden on utilities. In addition, a web address for a list of New Jersey State holidays is added to the definition.

In N.J.A.C. 14:3-1.3(e), the readopted rules require that a utility file with the Board any agreement or contract for service at rates not provided for under the utility's tariff. The Board is proposing to amend this provision to require submittal of a petition for prior approval of these filings, and to allow a telephone utility to instead make all of its individual case contracts available to Board staff upon request. The Board believes this will enable staff to provide the oversight necessary to ensure that utilities are complying with the rules.

At N.J.A.C. 14:3-1.3(f)7 and 8, two new pieces of information, both relating to the impact of proposed changes on other ratepayers, are required to be included in the filing provided for in this section.

N.J.A.C. 14:3-2.1(f)4 requires that the utility own and maintain all portions of an underground extension of electric service to a one, two or three family residence, which are located on the property being served by the extension. However, other Board policies and other State agencies generally consider any residence of three units or more to be a commercial property and not a residential property. Therefore, the Board is amending this provision to apply only to one and two-family residences.

In N.J.A.C. 14:3-2.5, the scope of provisions requiring identification of utility equipment is proposed to be narrowed to include only equipment covered under the previous rules prior to re adoption. The proposed new provisions would apply only to poles or structures carrying wires along or across public roads, and fire hydrants. The proposal erroneously expanded the provision to cover an impracticable and unnecessarily large class of equipment.

N.J.A.C. 14:3-3.2 is proposed for amendment to add to the list of documents that a utility must accept as proof of identity. The proposal would add a New Jersey State-issued identification card, and would also require that four other types of identification be valid at the time of application.

At N.J.A.C. 14:3-3.7(b), interruptions to autobus stations are removed from the list of facilities for which a thirty-minute service interruption will trigger a reporting requirement. The Board has determined that, due to the wide variation in the size and importance of bus stations, this requirement is not likely to produce useful results. In addition, a qualifier is added to ensure that only rail system interruptions that halt train traffic will require reporting.

An amendment to N.J.A.C. 14:3-3A.4(i) would require that a utility place a note on the front of a notice of discontinuance, indicating that important information regarding the customer's rights could be found on the back of the notice of discontinuance.

Several amendments are proposed to N.J.A.C. 14:3-3A.2(e) and 3A.5(a), both of which address weather-related restrictions on utility service shut offs. Commenters on the recent readoption raised many important issues regarding the changes to these provisions proposed as part of the readoption, including several issues that may result in major impacts to ratepayers as a whole. The Board is very concerned to note that these comments indicated a potential impact from the proposed rule changes that was broader than the Board had anticipated. As observed by one commenter, the Legislature has mandated that the Board minimize nonpayment shutoffs to low-income customers that are genuinely at risk of health or safety consequences. However, the Legislature has also tasked the Board with protecting all ratepayers from unreasonably high costs. Both of these mandates are becoming more important, and more difficult to achieve, in the current climate of high fuel costs and general economic slowdown. Based on the plethora of concerns identified by the commenters on the recent readoption, the Board has determined that the changes proposed may have been excessive. While it is important to protect customers at risk of significant threats to health or safety, it is also important to minimize the chance that paying customers will be forced to subsidize those who do not truly need protection. Furthermore, commenters raised other possible ways of achieving the goals the proposed amendments were meant to achieve. For example, programs to educate at-risk customers about the availability of assistance, and to ensure that enrollment is simple and easy, may significantly increase participation in these programs and thereby protect more customers from potentially dangerous shutoffs. Therefore, the Board has proposed amendments to these sections, which would restore the previous provisions governing weather-related termination prohibitions. Meanwhile, the Board will strive to ensure that low-income customers that are genuinely at risk will be protected from serious health or safety consequences of nonpayment shutoffs.

At N.J.A.C. 14:3-3A.5(i), an amendment would specify that Board staff have the authority to conduct informal investigations of possible tampering with utility meters.

At N.J.A.C. 14:3-4.6(c)2, amendments would modify the Board's formula for calculating adjustments to customer bills to account for meter inaccuracies, in cases where the utility has not tested a meter within the time period required under other Board rules. It has been the Board's experience that some utilities tend to have problems keeping current with required testing and maintenance of meters. The amendments to N.J.A.C. 14:3-4.6(c) will encourage utilities to diligently strive for meter accuracy and will help to minimize detrimental effects to customers from a utility's failure to perform timely meter testing.

An amendment to N.J.A.C. 14:3-4.6(d)1 would expand the exception to the requirement for utility reimbursement for meter inaccuracy that is based on meter tampering, to include theft of utility service by any means.

A minor amendment to N.J.A.C. 14:3-7.1(f), which covers billing general provisions, would allow the use of a smaller font in a standard notice required on utility bills to alert customers to the Board's jurisdiction over utilities. In addition, proposed new N.J.A.C.

14:3-7.1(g) would require that any discontinuance notice that is not in Spanish include a statement in Spanish, in boldface type, indicating that this is a notice of discontinuance and providing a toll-free number for the utility.

The Board has provided a 60-day comment period on the proposal. Therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to N.J.A.C. 1:30-3.1 and N.J.A.C. 1:30-3.2 governing rulemaking calendars.

Social Impact

With the exception of the one-hour increase in “normal business hours” and the addition of State-issued identification cards to the list of documents that utilities must accept to prove a customer’s identity, the proposed amendments reduce the regulatory burden on regulated entities to some degree. The two above-described amendments impose only a minor burden on utilities, and both are important accommodations for utility customers. The Board believes that the proposed amendments, taken together, will have a positive social impact in that they respond to input provided by commenters on the proposed readoption of these rules, and will make the rules more practical and effective in ensuring that New Jersey utility consumers receive safe, adequate, and proper service at reasonable rates.

Economic Impact

The proposed amendments to N.J.A.C. 14:3 are likely to have a minor economic impact, in that they reduce somewhat the regulatory burden on utilities, resulting in an overall savings for ratepayers. Proposed amendments that return weather-related shutoff restrictions to their previous levels will likely reduce utilities’ costs. Any utility costs that are incurred in complying with this chapter, if determined to be reasonable, are recognized by the Board for ratemaking treatment and the utility will therefore recoup these costs through customer charges.

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 proposed amendments are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for the proposed amendments.

Jobs Impact

The Board does not anticipate that these proposed amendments to N.J.A.C. 14:3 will have an impact on jobs in New Jersey. The proposal will reduce regulatory burden on utilities somewhat, but not likely to a degree that will cause utilities to hire or fire workers.

Agriculture Industry Impact

The Board does not expect the proposed amendments to N.J.A.C. 14:3 to have an impact on the agriculture industry in New Jersey. Most of the amendments affect only residential customers. The rules apply Statewide and are not expected to affect agriculture any differently than other utility customers.

Regulatory Flexibility Analysis

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

With the exception of the one-hour increase in "normal business hours" and the addition of State-issued ID to the list of documents that must be accepted to prove identity, all of the proposed amendments reduce the regulatory burden on regulated entities. The two above-described amendments impose only a minor burden on utilities, and both are important accommodations for utility customers. Therefore, an exception for small businesses is not necessary and would not be appropriate. None of the amendments will result in the need for utilities to employ professional services, as the proposed requirements can all be met utilizing personnel necessary for the normal conduct of their business.

Smart Growth Impact

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

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

SUBCHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

14:3-1.1 Definitions

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

...

“Normal business hours” means 9:00 a.m. to [4:00] 5:00 p.m. weekdays, except for New Jersey State holidays. A list of New Jersey State holidays can be obtained at <http://www.state.nj.us/nj/about/facts/holidays.html>.

...

14:3-1.3 Tariffs

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

(e) If a gas, electric, water or wastewater utility plans to enter into a contract or agreement with a particular customer or group of customers, for service at rates different from those provided for under the utility’s Board-approved tariff, the utility shall file a petition for approval, which shall include four copies of the contract or agreement, at least thirty days prior to the effective date of the agreement or contract. If a telephone utility enters into a contract or agreement with a particular customer or group of customers, for service at rates different from those provided for under the utility’s Board-approved tariff, the telephone utility shall make all individual case contracts (ICCs) available for inspection by Board staff upon request.

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

1. - 5. (No change.)
6. A complete and detailed list of every way in which the contract or agreement differs from the utility’s Board-approved tariff [.] ; and
7. The rate treatment of any change in costs, expenses and/or revenues, and the predicted impact of the change on other ratepayers of the utility; and
8. Any other potential impacts on other ratepayers, not described in 1 through 7 above.

(g) - (i) (No change.)

SUBCHAPTER 2. PLANT

14:3-2.1 Plant construction

(a) - (e) (No change.)

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

1. - 3. (No change.)
4. For an extension of electric service to a one[,] or two [, or three] family residence, the utility shall own and maintain the extension.

14:3-2.5 Identification of utility equipment

(a) [Each utility shall mark each piece of equipment that it owns, solely or jointly, which is installed after {effective date of this rule} and is not permanently located at a utility office, maintenance yard, storage facility or similar installation] This section shall apply to each utility that owns, solely or jointly, a fire hydrant, or a pole or other structure that supports wires or cables that run along or over a public roadway. The utility shall mark each such hydrant, pole, and structure as follows:

1. - 2. (No change.)
- [3. The equipment subject to this subsection shall include but shall not be limited to all poles or structures supporting wires or cables, fire hydrants, aboveground pipes, and other similar equipment;
4. Such] 3. The markings may be made with paint, brand or with a soft metal plate; and
- [5.] 4. The [characters of the mark] marks shall be of such size and so spaced and maintained as to be easily read.

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

SUBCHAPTER 3. SERVICE

14:3-3.2 Customer applications for service

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

(e) If a utility requires proof of identity with an application for service, the utility shall accept any of the following items to establish identity, and may also accept other documents at the utility's discretion:

1. - 3. (No change.)
4. A valid U.S. residency card with photograph;
5. A valid U.S. military identification card;
6. A valid county identification card
7. A valid county welfare identification card; [or]
8. A valid student identification card; or
9. A valid identification card issued by the State of New Jersey.

(f) - (h) (No change.)

14:3-3.7 Interruptions of service

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

(b) Thirty-minute interruptions: If a service interruption meets one or more of the criteria at 1 through 4 below, the utility shall report the interruption to the Board no later than thirty minutes from the time that the utility becomes aware that service has been interrupted for thirty minutes. This subsection shall apply if service is interrupted for thirty minutes to one or more of the following:

1. - 3. (No change.)

4. [An autobus station or] A subway system[,] or a passenger rail system, such that the interruption stops the trains from running.

(c) - (l) (No change.)

SUBCHAPTER 3A. Discontinuance and restoration of service

14:3-3A.2 Discontinuance for nonpayment

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

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

1. Whenever the high temperature is forecast to be [40] 32 degrees Fahrenheit or below during the next 24 hours, electric and gas utilities shall not, within any portion of their service territories, disconnect residential service for nonpayment, failure to pay a cash security deposit or guarantee, or failure to comply with the terms of a deferred payment plan. This limit applies to all residential customers, including those eligible for or enrolled in the Winter Termination program at N.J.A.C. 14:3-3A.5;

2. If a customer is eligible for the Winter Termination Program under N.J.A.C. 14:3-3A.5, an electric or gas public utility shall not discontinue service to the customer from November 15 through [April 1] March 15, except as provided under N.J.A.C. 14:3-3A.5;

3. If a customer is eligible for the Winter Termination Program and the high temperature is forecast to be [90] 95 degrees Fahrenheit or more[, or the National Weather Service heat index is forecast to be 90 degrees or more,] at any time during the following 48 hours, an electric utility shall not discontinue residential service to a customer for reasons of nonpayment, failure to pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement;

4. - 5. (No change.)

(f) [For the purposes of this subchapter, "heat index" means the temperature that a human body feels when hot air and high humidity are combined. This measurement combines the effects on the body of both air temperature and relative humidity, to determine an apparent temperature as sensed by the body. Thus, for a particular

combination of air temperature and humidity, the heat index identifies a corresponding temperature, which represents the way that hot and humid conditions actually feel to a human body. For more information regarding the heat index, see <http://www.crh.noaa.gov/pub/heat.php>.] (Reserved.)

(g) - (j) (No change.)

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

(a) - (h) (No change.)

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

(j) (No change.)

14:3-3A.5 Winter termination program for residential electric and gas service

(a) An electric or gas utility shall not discontinue service during the period from November 15 through [April 1] March 15, referred to in this section as the "heating season," unless otherwise ordered by the Board, to those residential customers who demonstrate at the time of the intended termination that they are:

1. - 8. (No change.)

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

(i) No discontinuance shall occur under (h) above until the customer has been afforded all reasonable due process considerations, including an opportunity to be heard. Toward this end, the electric and gas utilities shall comply with the following requirements prior to discontinuing service to any customer who has allegedly tampered with the meter or other utility facilities:

1. (No change.)

2. [The] Board staff shall have seven days after receipt of said information to complete an impartial and informal investigation of the matter. In the event that a utility comes forward with sufficient credible evidence that shows that the meters, pipes, wires, conduits or attachments through which a customer is thus being furnished with electric or gas service have been tampered with, [the] Board staff shall immediately notify the customer and the burden shall shift to the customer to come forward with sufficient evidence to rebut the charges of the utility. Failure to

do so will result in a finding that tampering did occur for the purpose of obtaining the utility service without payment and that the customer is responsible for the tampering;

3. Upon a finding by the Board staff that tampering did occur, the utility shall give written notification to the customer, by certified mail, return receipt requested, and to the local public welfare agency and the local municipal health agency, by regular mail, as to the date upon which service to the customer shall be terminated. Said notification shall be made at least seven days prior to the date of the proposed service termination. The utility shall further advise the customer in the written notification that if he or she claims to be dependent on life sustaining equipment, the customer must furnish a physician's certificate within the aforementioned seven-day period, wherein the condition requiring such equipment is identified and verified; and

4. (No change.)

(j) (No change.)

SUBCHAPTER 4. METERS

14:3-4.6 Adjustment of charges for meter error

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

(c) If the date when the meter first became inaccurate is not known, the adjustment shall be determined as follows:

1. (No change.)

2. Determine the applicable time period as follows:

i. Determine the [time] period of inaccuracy; that is, the period between the test that found the meter inaccuracy and the most recent previous test of the meter. [This time] The period of inaccuracy may be longer than the time the meter has served the existing customer;

ii. [Divide the time determined under (c)2i above in half;] Perform the following calculation:

a. If the period of inaccuracy determined under (c)2i is shorter than the maximum permitted time between meter tests, as determined under N.J.A.C. 14:5-3.2, 14:6-4.2, or 14:9-4.1(b), divide the period of inaccuracy in half;

b. If the period of inaccuracy is longer than the maximum permitted time between meter tests, divide the maximum time between meter tests in half; then add the difference between the maximum time between meter tests and the period of inaccuracy;

iii. - iv. (No change.)

3. - 4. (No change.)

(d) If a meter is found to be registering less than 100 percent of the service provided, the utility shall not adjust the charges retrospectively or require the customer to repay the amount undercharged, except if:

1. The meter was tampered with, or other theft of the utility service has been proven;

Note: This is a courtesy copy of the proposal. The official version will be published in the New Jersey Register on May 19, 2008. Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

2. - 3. (No change.)

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

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

14:3-7.1 Billing general provisions

(a) - (e) (No change.)

(f) Each utility shall ensure that every bill it issues includes the following text, legibly printed in an obvious location: "This utility provides services regulated by the New Jersey Board of Public Utilities, which can be reached at 800-624-0241 and 973-648-2350." This text shall be printed in [type no less than one-half inch in height (36 points)] Arial bold font, at least 18 points in size.

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