



*Via regular and electronic mail*

May 12, 2017

Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
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CN 350  
Trenton, New Jersey 08625  
[Irene.Asbury@bpu.state.nj.us](mailto:Irene.Asbury@bpu.state.nj.us)

**Re: AARP COMMENTS CONCERNING THE NEW JERSEY BOARD OF PUBLIC UTILITIES' STRAW PROPOSAL ON THE IMPLEMENTATION OF PROVISIONAL BASE RATES**

Dear Secretary Asbury,

AARP is a non-profit, nonpartisan membership organization that believes no one's possibilities should ever be limited by their age and seeks to find new solutions so that more people can live and age as they choose. AARP is one of the only national advocacy organizations working at both the federal and state levels to fight against unfair utility rates and to help people save money on their utility bills. In these difficult economic times, we, along with our members, continue to advocate on behalf of families struggling to pay their utility bills. We work to advance regulations and legislation that protects consumers from unfair rate increases, advances consumer protections and shields consumers from cost shifting by utility corporations.

AARP has reviewed the BPU's straw proposal concerning the implementation of provisional base rates released on April 26, 2017 and attended the May 4, 2017 stakeholder meeting at the BPU headquarters in Trenton. Along with our comments at the stakeholder meeting, please accept these comments on behalf of AARP's 1.3 million Garden State members concerning the straw proposal.

As described in more detail below, the BPU's straw proposal would allow New Jersey's utilities to amass multi-million dollars in rate increases without having to prove anything let alone that such increases are just and reasonable.

AARP believes that a utility's revenue requirement should be based on just and reasonable expenses necessary to provide service and investments that are prudent and used and useful to ratepayers. Rates should be stable, predictable, and understandable, with costs allocated fairly among customers.

Because the BPU's straw proposal significantly undermines these critical consumer protections, AARP opposes the straw proposal. It is simply bad public policy to force utility consumers to pay rates that have not been determined to be just and reasonable, that ultimately is not approved and then receives a refund much later.

All consumers must be able to rely on the availability of safe, affordable, and high-quality services.

Home energy costs make up a sizable portion of household budgets. One group particularly vulnerable to increases in energy prices is older consumers. Although they consume approximately as much energy as younger people do, older Americans devote a higher percentage of their total spending to residential energy costs. They spend a greater proportion of their income to heat their homes. (This is true even after statistics are adjusted for weather and home size.) Low-income older households spend an average of 10 percent of their income on residential energy. However, in about one out of four cases, low-income older households devote 15 percent or more of their income to home energy bills. Too often older adults with low incomes must choose between cutting back on energy expenditures and reducing spending for other necessities, and may thus end up risking their health or comfort.

Rate increases, including provisional rate hikes, are very burdensome to customers. A recent New Jersey Department of Human Services report, *Living Below the Line 2017*, finds that nearly six in ten NJ retired elder-only households lack sufficient annual incomes to insulate them against poverty as they age.<sup>1</sup> This report also notes that the “median annual incomes among NJ retired women vary greatly by race and ethnicity. Median income for White women elders (\$18,817) is approximately \$4,300 higher than median income for Black women elders (\$14,521), \$8,930 higher than median income for Hispanic women elders (\$9,883), and \$6,200 higher than median income for Asian women elders (\$12,605)”. 30% of all NJ seniors rely on social security as their sole income.

The New Jersey Board of Public Utilities must ensure service affordability for all— all utility rates should reflect the prudent use of ratepayer money and fairly distribute costs and savings among consumers, while taking into account households with lower incomes. The BPU Straw Proposal violates these principles.

The BPU’s straw proposal is not based on any cost/benefit analysis or economic research from New Jersey or other jurisdictions nor has the Board provided stakeholders with an economic impact analysis of the proposal.

Based on information compiled by the NJ Division of Rate Counsel it is unclear that there is even a problem in need of a solution. New Jersey’s regulated utilities do not suffer from extended suspension periods. The chart below demonstrates that of the completed cases in recent years, the longest suspension period was ten months, and in most the average is just over seven months.

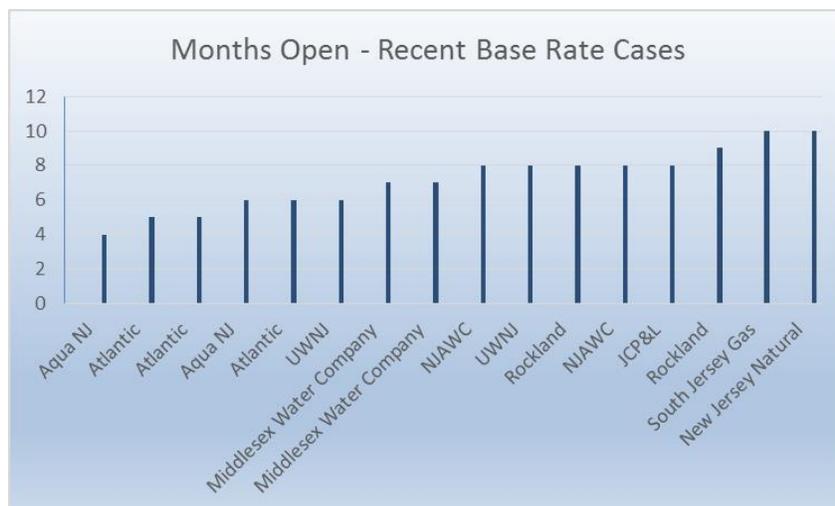


Figure 1 : Based on data compile by the NJ Division of Rate Counsel

Finally, AARP is aware of only 9 states that permit implementation of provisional rate increase on a regular basis. Consumers in these states face a host of problems. For example:

- A. In Oklahoma, the Oklahoma Corporation Commission (OCC) recently approved \$8.9 million of a \$92.5 million rate increase request for Oklahoma Gas & Electric, (OGE), in Docket 16-00395 – less than 1/10 of the rate hike initially sought. However, since July, 2016 OGE has charged ratepayers \$69 million of the total \$92.5 million they originally sought through the use of provisional rates, grossly overcharging 830,000 utility consumers.
- B. In Michigan, “self-implemented” rates have made it extremely easy to raise rates and have rendered the Michigan Public Service Commission, (MIPSC), an agency issuing refunds. For example, on February 1, 2016 Detroit Edison, (DTE), filed a rate increase request, seeking authority to raise its rates in by \$344 million, (see MPSC U-18014). Effective August 1, 2016, DTE “self-implemented” a reduced request of \$245 million. On January 31, 2017, the Commission issued its order in the case; authorizing a rate increase of \$184 million - 53% of the initial request and \$61 million more on a provisional basis than what was found to be just and reasonable. Yet for six months, DTE’s consumers have been paying overpriced electricity rates.

No utility customer, particularly those who can ill afford to do so, should be used as a bank to make lucrative loans to utility corporations. The table below, based on recent petitions filed in New Jersey, demonstrates how New Jersey utilities would receive a financial windfall under a provisional rate implementation process - and to the tremendous detriment of their customers. (Often these petitions are filed with only three or four months of actual data, allowing overly generous estimates of forward-looking revenue requirements).

**Dollars Approved vs. Dollars Sought, 4 recent NJ cases (\$millions)**

| Year | Utility | \$ Sought | Decision | \$ Difference | Decision as % of \$ Sought | Notes |
|------|---------|-----------|----------|---------------|----------------------------|-------|
| 2012 | JCP&L   | \$31      | \$(115)  | \$146         | (465%)                     | a     |
| 2015 | NJNG    | \$148     | \$45     | \$103         | (70%)                      | b     |
| 2015 | SJNG    | \$63      | \$20     | \$43          | (68%)                      | c     |
| 2015 | NJAW    | \$62      | \$22     | \$40          | (65%)                      | d     |

- a | This docket lasted over 2 years. During the entire time the utility was overearning.
- b | NJNG reduced its request to an amount >\$100 M more than initially requested when it used actual data.
- c | SJNG reduced its request to \$54.4 M when it used actual data.
- d | Settlement reached < 9 mos., but when actuals came in, utility settled for 1/3 of original request

As stated above, AARP is opposed, barring extraordinary circumstances, to the implementation of provisional rates. However should the Board determine to move forward with this initiative, we urge the Board to first conduct the requisite cost/benefit analyses, utilize credible and unbiased economic research, provide an economic impact analysis for New Jersey and closely study the problems caused by provisional rates in other jurisdictions. After such a review we recommend the BPU conduct a robust stakeholder process beyond the quickly convened meeting that has thus far occurred, and whereby stakeholders and the public have an on-going opportunity to meet with Board staff on a revised straw proposal based on the Board’s research, studies and analyses, comments received to date and with adequate time for deliberation and input.

If the Board moves forward we also urge the Board to consider the following consumer protections, at a minimum, including those suggested by Rate Counsel at the May 4, 2017 stakeholder meeting:

1. Require the utility corporation demonstrate financial distress/financial emergency, that the emergency would be avoided with a provisional rate increase, and that the utility has no other alternative source of funding to address the emergency as a condition for the implementation of provisional rates.
2. Require the utility seek and receive BPU approval prior to implementing provisional rates.
3. Require any utility seeking implementation of provisional rates file its original petition with no less than 6 months of actual data.
4. Establish the interest rate for refunds to ensure that utilities do not profit from provisional rates and be set at a level higher than the utilities requested return.
5. Require that refunds must be to the same customers who paid overcharges, ( generational equity).
6. Require that refunds be reviewed and approved by the BPU and issued to customers within 7 days of the Board's final Decision and Order establishing new base rates.
7. Require that the scope of provisional rates be limited to existing activities and not for any new projects
8. Require wide notice of proposed provisional rates, including on customer bills.
9. Require a utility be permitted to implement provisional rates no more than once every two years.
10. Required that provisional rate decreases be implemented immediately if it appears the utility is overearning and ratepayers are entitled to a rate decrease.

Thank you for your careful consideration of AARP's comments. If you have any questions or would like additional information please do not hesitate to contact me at [eliebman@aarp.org](mailto:eliebman@aarp.org).

Sincerely,



Evelyn Liebman  
New Jersey Associate State Director, Advocacy

*AARP is a nonprofit, nonpartisan organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands*

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<sup>i</sup> <http://www.state.nj.us/humanservices/news/reports/doasreports.html>