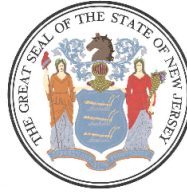


State of New Jersey
Governor Philip D. Murphy
Lt. Governor Sheila Y. Oliver



Joseph L. Fiordaliso
President

Mary-Anna Holden
Dianne Solomon
Bob Gordon
Dr. Zenon Christodoulou
Commissioners

Board of Public Utilities



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NOTICE¹

IN THE MATTER OF THE PROPOSED AMENDMENTS TO N.J.A.C. 14:3 – ALL UTILITIES

Docket No. [AX22090613](#)

REQUEST FOR COMMENTS AND INFORMATION

The New Jersey Board of Public Utilities (“NJBP” or “Board”) hereby gives notice of a virtual Stakeholder Meeting to solicit input from the public and interested parties on the proposed amendments to rules at N.J.A.C. 14:3, which governs all utilities, a summary of which can be found below. The changes include the impact of:

1. The extension of the Winter Termination Program to water and wastewater residential customers pursuant to P.L. 2021, c. 317, sec. 7.
2. Legislation, which requires public utilities and municipalities to give each other notice of infrastructure projects and coordinate schedules pursuant to P.L. 2021, c. 263.
3. The Tax Cuts and Jobs Act of 2017 on deposits or non-refundable contributions collected by water and wastewater utilities for extensions to provide regulated services, as well as updating the subchapter for water, wastewater, telecommunications, gas, and electric by replacing references to the Tax Reform Act of 1986 with references to the current Internal Revenue Code.

STAKEHOLDER MEETING

DATE: November 10, 2022

TIME: 1:00 p.m.

LOCATION: Zoom Virtual Webinar

REGISTER: https://us06web.zoom.us/webinar/register/WN_iOtn-p2HRa-IK3ldjWldGw

I. WINTER TERMINATION PROGRAM

Board Staff (“Staff”) is proposing that the Board consider modifications to the Winter Termination Program, N.J.A.C. 14:3-3A.5, to clarify that the mandatory “up to 25 percent” down payment requirement does not apply to water and wastewater residential customers pursuant to P.L. 2021, c. 317, sec. 7, effective December 21, 2021; and that applicants of the Low Income Household Water Assistance Program or any other State, local, or utility program that provides assistance or

¹ This is not a paid legal advertisement.

discounted rates specifically to help eligible customers pay sewer or water bills that exist at the time are automatically eligible for the WTP.

II. NOTICE OF INFRASTRUCTURE PROJECTS

Staff is proposing an amendment to N.J.A.C. 14:3-1.1 and new rules at N.J.A.C. 14:3-2.9 and 2.10, which require public utilities, local utilities and local units, as defined in a proposed amendment to N.J.A.C. 14:3-1.1, to provide reciprocal notification prior to initiating public utility infrastructure projects and local infrastructure projects pursuant to the provisions of P.L. 2021, c. 263 (N.J.S.A. 48:3-17.11 et seq.). P.L. 2021, c. 263 was enacted on November 8, 2021, became operative on May 7, 2022, and directs the Board to adopt such rules and regulations in consultation with the New Jersey Department of Community Affairs. The notification must include a summary of the purpose and scope of the infrastructure project, a project schedule, and a map of the project location. The local unit, local utility, and public utility shall coordinate with each other to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work. The benefits of enhanced coordination may include less disruption to roads and infrastructure and faster recovery from excavation and other work necessary for public utilities to provide safe, adequate and proper service.

A stakeholder meeting on this subsection was previously held on May 10, 2022 under Board Docket No. AX22030133. Comments received on or before June 9, 2022 were considered and are a part of this proceeding. This proceeding is an opportunity to submit additional comments.

III. MAIN EXTENSIONS

Staff is proposing that the Board consider modifications to the existing main extension rules, N.J.A.C. 14:3-8 et seq., to reflect tax changes that affect water and wastewater utilities that became effective with the passage of the Tax Cuts and Jobs Act of 2017 ("Tax Act"). Contributions in aid of construction ("CIACs") received by gas and electric utilities for main extensions became taxable for federal income tax ("FIT") and state income tax ("SIT") purposes with the passage of the Tax Reform Act of 1986 ("TRA-86"). CIACs received by water and wastewater utilities for main extensions became taxable for FIT purposes with the passage of the Tax Act. Water and wastewater utilities do not pay SIT because they pay gross receipts and franchise taxes. The existing rules include a template that the gas and electric utilities are required to follow to calculate the gross up for FIT and SIT for main extension CIACs, deposits, and refunds. The proposed rules would require water and wastewater utilities to also follow this template to calculate the gross up for FIT for main extension CIACs, deposits, and refunds. As water and wastewater utility CIACs are not subject to SIT, they would be required to use the template but would enter zero as the SIT rate. Staff's proposal is to change all references in the current main extension rule and the template from TRA-86 to Internal Revenue Code ("IRC") so that they would apply to all gas, electric, water, and wastewater utilities whose CIACs are taxable without referencing which law made them taxable.

A stakeholder meeting on this subsection was previously held on April 29, 2021 under Board Docket No. AX19050615. Comments received on or before May 13, 2021 were considered and are a part of this proceeding. This proceeding is an opportunity to submit additional comments.


The deadline for comments on this matter is 5:00 p.m. ET on December 13, 2022.

In addition to comments on the proposed rule amendments, the Board would like feedback on the below questions which are based on comments and responses from the notice of adoption in the Board's recent rulemaking in Chapter 3.² 54 N.J.R. 341(a) (Feb. 22, 2022); 54 N.J.R. 1612(a) (Aug. 15, 2022). Specifically, Staff seeks comments and information from water, wastewater, gas and electric utilities and customer representatives, including the New Jersey Division of Rate Counsel, who may provide specific insight on the detailed questions below. All stakeholders are invited to comment.

Please submit comments directly to the specific docket linked above using the Board's [Public Document Search](#) tool and the "Post Comments" button. Comments are considered "public documents" for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. Written comments may also be submitted to:

Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Phone: 609-913-6241
Email: board.secretary@bpu.nj.gov

Please include the caption and docket number noted above with your responses.



Carmen D. Diaz
Acting Secretary of the Board

Dated: October 27, 2022

² *In the Matter of the Proposed Readoption with Substantial Amendments to N.J.A.C. 14:3 et seq., All Utilities*, BPU Dkt. No. AX21070998 (August 15, 2022).

QUESTIONS

SUBCHAPTER 3. SERVICE

14:3-3.3 Providing information to customers

1. Should N.J.A.C. 14:3–3.3(d) include information about water conservation and language about how conservation will reduce the need for natural gas and water infrastructure? (Comment/Response 29)
2. Should the requirement of P.L. 2021, c. 97 that the Utility Customer Bill of Rights be in English and also be translated into the primary language spoken by at least 10 percent of people in a municipality serviced by a utility be added to the Board’s regulations? (Comment/Response 30)

SUBCHAPTER 3A. DISCONTINUANCE AND RESTORATION OF SERVICE

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

3. Should discontinuance notices that are provided in English and Spanish also be translated into other languages at the request of a customer if that language is the primary language spoken by a substantial number of customers within a municipality serviced by that utility? Should costs incurred for this additional translation be recoverable through the ratemaking process if those costs cannot be offset by improved collections? (Comment/Response 78)
4. Should the notice of discontinuance that may be sent during the heating season and the Winter Termination Program Fact Sheet both be translated into the primary language spoken by a substantial number of customers within a municipality serviced by that utility? Should these documents contain a statement in languages other than English and Spanish that identify the document as a disconnection notice, with corresponding changes made to N.J.A.C. 14:3-7.1 (b), (c), and (g)? (Comment/Response 88)
5. Should the Winter Termination Program Fact Sheet be included with discontinuance notices two months prior to and during the heating season? How often should the fact sheet be provided to customers to be considered sufficient but not excessive notice? (Comment/Response 89)

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

6. In addition to notice by regular mail, should each utility contact by telephone not only those over 65 years of age, but all its customers pursuant to N.J.A.C. 14:3-3A.4(c)? (Comment/Response 98)

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

7. N.J.A.C. 14:3-3A.6(a) and (b) require utilities to provide a 15-day notice of discontinuance to tenants who are not the accountholder. Should this notice period be extended to 30 days? (Comment/Response 110)
8. N.J.A.C. 14:3-3A.6(b) requires the utility to offer the tenant the opportunity to have service billed directly to the tenant, “unless the utility demonstrates that such billing is not feasible.” In the case where it is not possible to provide service to the tenant in the tenant’s name, should the rule be revised to prohibit discontinuance of service due to nonpayment by an owner of the premises or customer of record (*i.e.* landlord)? (Comment/Response 111)

SUBCHAPTER 5. CONTACTING THE UTILITY

14:3-5.2 Contacting the Utility

9. Should there be performance standards for customer calls and reporting requirements similar to those for telephone utilities pursuant to N.J.A.C. 14:10-1A.8? (Comment/Response 129)

SUBCHAPTER 7. BILLS AND PAYMENT FOR SERVICE

14:3-7.4 Method of Billing

10. Should the Board add a billing accuracy standard for all utilities, whereby each utility correct and re-bill erroneous bills for fewer than five per 1,000 of its customers, and report its performance semi-annually to the Board and Rate Counsel? (Comment/Response 146)

14:3-7.5 Budget billing plans for residential accounts

11. Should the provisions in N.J.A.C. 14:3-7.5 (c) and (h) apply to water and wastewater customers? Should bill inserts and bill messages be provided in the primary language spoken by a substantial number of customers within a municipality serviced by that utility service territory in addition to an English version? (Comment/Response 147)

14:3-7.6 Disputes as to bills

12. Should the timeframe for the customer to contact the Board regarding the dispute be expanded? Should a customer's service be maintained while the utility is considering the billing dispute; and if the customer makes a request to the Board to investigate a disputed charge until such time as the Board has made a determination regarding the customer's dispute? (Comment/Response 149)

14:3-7.7 Deferred payment agreements

13. Should N.J.A.C. 14:3-7.7(a) be modified regarding the definition of the utility's "good faith effort" in providing a customer the opportunity to enter into a deferred payment arrangement? For municipalities in which the primary language of 10 percent or more of the population is a language other than English, should communications to such customers regarding deferred payment plans be written in that language as well as English? Additionally, should metrics regarding deferred payment arrangements, such as the total number entered into, be tracked on a monthly basis and reported on a semi-annual basis? (Comment/Response 157)

**IN THE MATTER OF THE PROPOSED AMENDMENTS
TO N.J.A.C. 14:3 – ALL UTILITIES**

Docket No. [AX22090613](#)

Full text of the proposed amendment and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

Chapter 3 - ALL UTILITIES

Subchapter 1 - GENERAL PROVISIONS

14:3-1.1 – Definitions

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

...

“Local infrastructure project” means a project performed by a local unit or a local utility to improve a public road, street, or bridge under the jurisdiction of a local unit or local utility facilities or any work conducted in a public utility right-of-way.

“Local unit” means a county or municipality.

“Local utility” means a sewerage authority created pursuant to the “sewerage authorities law,” P.L.1946, c.138 (N.J.S.A. 40:14A-1 et seq.), a utilities authority created pursuant to the “municipal and county utilities authorities law,” P.L.1957, c.183 (N.J.S.A. 40:14B-1 et seq.), an entity created pursuant to the “Municipal Shared Services Energy Authority Act,” P.L.2015, c.129 (N.J.S.A. 40A:66-1 et al.), or a utility of a local unit, authority, commission, special district, or other corporate entity not regulated by the Board of Public Utilities

under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water, or sewer service to a municipality or the residents thereof.

...

“Public utility infrastructure project” means the construction, reconstruction, installation, demolition, restoration, or alteration of facilities under ownership or control of the public utility that requires approval by the Board pursuant to N.J.A.C. 14:3-2A.1 or 14:7-1, or that requires pre-construction approval of the project through a decision and order issued by the Board, but shall not include traffic control, leak surveying, snow plowing, vegetation management in or around public utility rights-of-way, mark outs, landscaping, meter work, equipment repairs, or other work occurring during an emergency as that term is defined in N.J.S.A. 48:3-17.11.

...

Subchapter 2 – PLANT

14:3-2.9 – Public utility notification of a planned infrastructure project

(a) A public utility shall notify a local unit and local utility of any public utility infrastructure project that the public utility plans to undertake within the borders of that local unit and local utility service area at least 180 days prior to initiating work on the public utility infrastructure project. The notice shall include a summary of the purpose and scope of the public utility infrastructure project, a public utility infrastructure project schedule, and a map of the public utility infrastructure project location.

(b) Notwithstanding the notification requirements of N.J.A.C. 14:3-2.10(a), within 60 days of the receipt of the notice required pursuant to N.J.A.C. 14:3-2.9(a), a local unit and local

utility shall examine any underground utility facility owned or operated by the local unit or local utility at that project location to the extent feasible and notify the public utility whether such underground utility facility needs repair or replacement and if the local unit or local utility intends to undertake a local infrastructure project within the scope of the public utility infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work.

14:3-2.10 - Local unit and local utility notification of an infrastructure project

(a) A local unit and local utility shall notify each public utility that provides service within the borders of a local unit and local utility service area of any local infrastructure project that the local unit or local utility plans to undertake at least 180 days prior to initiating work on the local infrastructure project. The notice shall include a summary of the purpose and scope of the local infrastructure project, a local infrastructure project schedule, and a map of the local infrastructure project location.

(b) Notwithstanding the notification requirements of N.J.A.C. 14:3-2.9(a), within 60 days of the receipt of the notice required pursuant to N.J.A.C. 14:3-2.10(a), a public utility shall examine any underground utility facility owned or operated by the public utility within the borders of a local unit at that project location to the extent feasible and notify the local unit and any relevant local utility whether an underground utility facility needs repair or replacement and if the public utility intends to construct a public utility infrastructure project within the scope of the local infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective

project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work.

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

(a) – (h) (No change.)

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

1.-3. (No change.)

(j) The statements required to be included on notices of discontinuance of electric, [and] gas, **water and wastewater** customers pursuant to (h) and (i) above shall be printed on the back of the notice under the headline (in boldface) "[STATEMENT OF CUSTOMER'S] **UTILITY CUSTOMER BILL OF RIGHTS.**" The headline shall be printed in type no less than one-half inch in height (36 points). The **Utility Customer Bill of Rights** [individual statements] shall be printed in type no less than 1/6 inch in height (12 points). **Nothing other than the Utility Customer Bill of Rights** [matter] shall be printed [upon] **on** 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.

(k) Each public utility shall provide in any communication to a residential customer in connection with an overdue utility bill information about the availability of the Winter Termination Program and utility assistance from any of the following

programs that may exist at the time: the Universal Service Fund, the Low Income Home Energy Assistance Program, the Low Income Household Water Assistance Program, or any other utility assistance program administered by the State.

[(k)] **(l)** (No change in text.)

14:3-3A.5 Winter Termination Program

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

1.-7. (No change.)

8. Applicants of the Low Income Household Water Assistance Program or any other State, local, or utility program that provides assistance or discounted rates specifically to help eligible customers pay sewer or water bills that may exist at that time; or

[8.]**9. [Persons] Residential customers who are** unable to pay their utility bills because of circumstances beyond their control. Such circumstances shall include, but shall not be limited to, unemployment, illness, medically related expenses, recent death of an immediate family member, and any other circumstances, which might cause financial hardship. **These residential customers shall be permitted to self-certify to the utility or Customer Assistance of the Board of an inability to pay their public utility bill.**

(b) Residential electric[,] **and** gas[, water, and wastewater] customers whose service has been discontinued for non-payment and not reconnected as of November 15, and who are otherwise eligible for protection under the Winter Termination Program, shall be required to make a down payment of up to 25 percent of the outstanding balance as a condition of receiving electric[,] **and** gas[, water, and wastewater] service during the current heating season. The customer shall be notified, at the time of enrollment in a budget billing plan, as required pursuant to [(c)] **(d)** below, that the down payment shall represent a maximum required amount and is not to be regarded as a minimum required payment. The utility shall consider the customer's ability to pay in determining the appropriate level of the required down payment, but in no instance shall such required payment exceed 25 percent of the outstanding balance. The utility shall refer to the Board for resolution[,] **of** all disputes regarding the appropriate amount of a down payment[s].

(c) Residential water and wastewater customers whose service has been discontinued for non-payment and not reconnected as of November 15, and who provide proof to the public utility that they have submitted an application for assistance under the Low Income Household Water Assistance Program or any other State, local, or utility program that provides assistance or discounted rates specifically to help eligible customers pay sewer or water bills, shall be reconnected before such application has been approved, denied, or withdrawn, unless there is a utility emergency, and shall not be required to make a down payment on the outstanding balance as a condition of receiving water and wastewater service during the current heating season. Upon request, the residential customer shall provide the utility with an update on the status of the application.

Recodify existing (c)-(g) as **(d)-(h)** (No change in text.)

[(h)] **(i)** An electric, gas, water, and wastewater utility may terminate service to a residential customer who is eligible for the Winter Termination Program in accordance with [(i)] **(j)** and [(j)] **(k)** below, if said customer connects, disconnects, or otherwise tampers with the meters, pipes, wires, or conduits of the utility for the purpose of obtaining electric, gas, water, and wastewater service without payment.

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

1.-2. (No change.)

3. Upon a finding by 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 comply with the procedures for medical emergencies at N.J.A.C. 14:3-3A.2[(i)] **(j)** and [(j)] **(k)** within the aforementioned seven-day period. Any customer that wishes to dispute a

discontinuance based on a finding that tampering has occurred may file a petition with the Board in accordance with N.J.A.C. 14:1-1.5; and

4. Any relief requested pursuant to N.J.A.C. 14:3-3A.2[(i)](j) regarding medical emergencies shall be reviewed on a case-by-case basis.

[(j)] (k) A customer, otherwise eligible for the Winter Termination Program, whose electric, [or] gas, **water or wastewater** service had been discontinued prior to the start of the heating season and who has subsequently caused the unauthorized restoration of said service shall, when said unauthorized service has been registered on the meter, be required to make a down payment of up to 25 percent of the outstanding account balance as of the most current meter reading as a pre-condition for the continuation of service during the heating season.

14:3-3A.9 Basis for restoration

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

(e) **For non-Winter Termination Program customers and Winter Termination Program customers outside the Winter Termination Program period of November 15 to March 15,** [A] a residential electric, gas, water, or wastewater customer who has been disconnected[,] shall have their service reconnected, upon request, if [all of] the following conditions are met:

1. They can demonstrate that they have applied to one of the following [eligible] assistance programs **that may exist at the time:** Universal Service Fund, Low Income Home Energy Assistance, Payment Assistance for Gas and Electric, [or] the Low-Income Household Water Assistance program(s), **or any other State, local, or utility**

program that provides assistance or discounted rates specifically to help eligible customers pay their utility bills; and

[2. The residential customer was not enrolled in any of the assistance programs listed above during the prior year; and]

[3.] **2.** They have made a down payment of up to 25 percent of the outstanding balance [consistent with N.J.A.C. 14:3-3A.5(b)] **except that the utility shall accept a lesser amount from those customers who prove they do not have the ability to pay.**

(f) Reconnection of service under subsection (e) is limited to once per calendar year per utility service.

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

14:3-8.5 General provisions regarding costs of extensions

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

(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.-3. (No change.)

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

i.-iv. (No change.)

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

14:3-8.6 Deposits, contributions, and refunds--Internal Revenue Code **gross up for income taxes**

(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 pursuant to the Internal Revenue Code [(TRA-86)]; and
2. Includes in the deposit or non-refundable contribution the associated tax consequences incurred by the regulated entity [under TRA-86] **pursuant to the Internal Revenue Code.**

(b) If a regulated entity includes in a deposit or non-refundable contribution the tax consequences incurred [under TRA-86] **pursuant to the Internal Revenue Code**, all deposit refunds shall also include the associated tax consequences incurred [under TRA-86] **pursuant to the Internal Revenue Code**. [Effective January 20, 2016, t] These tax consequences shall be determined in accordance with this section.

(c) The [TRA-86] **Internal Revenue Code** gross-up factor shall be:

1.-2. (No change.)

3. For a gas, [or] electric, **water, or wastewater** regulated entity, calculated using the [TRA-86] **Internal Revenue Code (IRC)** Gross-up Factor Template posted on the

Board's website, [<https://www.bpu.state.nj.us/>]

<https://www.nj.gov/bpu/about/divisions/energy/>.

(d) To determine the amount of a deposit or non-refundable contribution that includes the associated tax consequences incurred [under TRA-86] **pursuant to the Internal Revenue Code**, the regulated entity shall:

1. Determine the base amount of the deposit or non-refundable contribution, before including the tax consequences of [TRA-86] **the Internal Revenue Code**;
2. Determine the portion of the base deposit or non-refundable contribution that is taxable [under TRA-86] **pursuant to the Internal Revenue Code**. This is the "taxable amount";
3. Multiply the taxable amount determined under (d)2 above by the regulated entity's [TRA-86] **Internal Revenue Code** 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] **pursuant to the Internal Revenue Code**; and
5. To determine the dollar amount of the regulated entity's associated tax consequences incurred [under TRA-86] **pursuant to the Internal Revenue Code**, 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] **pursuant to the Internal Revenue Code**, 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] **the Internal Revenue Code**), using the suggested formula at N.J.A.C. 14:3-8.9 or 8.11, as applicable;
2. (No change.)
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] **pursuant to the Internal Revenue Code**;
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] **when** the deposit was collected [before 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 Internal Revenue Code**. The sum is the refund amount.

(f) Each regulated entity that collects deposits and non-refundable contributions that are taxable [under TRA-86] **pursuant to the Internal Revenue Code** shall comply with all of the following:

1. [No later than January 10, 2016] **As of (14 days after the effective date of this rulemaking)**, each regulated entity that utilizes electric and/or gas depreciation rates shall calculate its [TRA-86] **Internal Revenue Code** gross-up factor pursuant to (c) above and file this factor, along with the completed [TRA-86] **IRC** 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 January 10, 2016] **As of (14 days after the effective date of this rulemaking)**, each regulated entity that utilizes water and/or wastewater depreciation rates shall calculate its [TRA-86] **Internal Revenue Code** gross-up factor pursuant to (c) above and file this factor, along with [a detailed calculation of this factor] **the completed IRC Gross-up Factor Template**, with the Board Secretary and Director of the Board's Division of Water;

3. [No later than January 10, 2016] **As of (14 days after the effective date of this rulemaking)**, each regulated entity that utilizes telecommunication depreciation rates shall calculate its [TRA-86] **Internal Revenue Code** 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] **Internal Revenue Code** gross-up factor changes, for example if the capital structure, tax rates, or depreciation rates change, the regulated entity shall calculate its new [TRA-86] **Internal Revenue Code** 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.

DRAFT