

scope, and intent to those in a school of mortuary science approved by the American Board of Funeral Service Education as required for licensure under N.J.A.C. 13:36-3.1. For the purpose of determining substantial equivalence of the applicant's military education courses and/or training, the Board shall consider only those education courses and/or training relevant to the practice of mortuary science that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure, including successful completion of the National Board Examination, the Mortuary Jurisprudence examination, and the practical examination as set forth in N.J.A.C. 13:36-3.1.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:36-3.1 for the issuance of the license.

(e) Satisfactory evidence of such education, training, and experience shall be assessed on a case-by-case basis.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Service Connections Extensions of Service

Proposed Amendments: N.J.A.C. 14:3-8.1, 8.2, 8.4, 8.5, 8.9, 8.10, and 8.11

Proposed Repeal and New Rule: N.J.A.C. 14:3-8.6

Proposed New Rules: N.J.A.C. 14:3-8.14

Proposed Repeals: N.J.A.C. 14:3-8.7, 8.8, 8.12, and 10

Authorized By: New Jersey Board of Public Utilities, Dianne Solomon, President, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.

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.

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

BPU Docket Number: AX1207061.

Proposal Number: PRN 2014-190.

Comments may be submitted through January 30, 2015, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us or on paper to:

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: AX1207061
44 S. Clinton Ave., 9th floor
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The Board of Public Utilities ("Board" or "BPU") is proposing new rules, amendments, and repeals of multiple sections of N.J.A.C. 14:3 providing basic requirements for all utilities regulated by the Board, which include water, wastewater, electricity, gas, and telephone utilities. These proposed new rules, amendments, and repeals are required by the New Jersey Superior Court Appellate decisions in *In re Centex Homes, LLC Petition for Extension of Serv.*, 411 N.J. Super. 244 (App. Div.

2009) (Centex Decision) and *In the Matter of the Board's Main Extension Rules N.J.A.C. 14:3-8.1 et seq.*, 426 N.J. Super. 538 (App. Div. 2012) (Main Extension Decision). While the Board regulates cable television operators, these are not governed by this chapter.

In 2005, the Board established main extension rules at N.J.A.C. 14:3-8 that contained different provisions depending upon the location of the structure(s) that would be served by the main extension. Specifically, the Board's main extension rules contained different provisions for main extensions that were built to serve areas designated for growth and main extensions that were built to serve areas that were not designated for growth, as those terms were defined in the rules at that time. The rules required applicants requesting main extensions to serve areas not designated for growth to pay the full cost of the extension as a nonrefundable contribution. The rules contained provisions that determined whether or not applicants requesting extensions to serve areas designated for growth, would be required to make a payment to the regulated entity for the extension, and if so, under what circumstance all, or a portion of, the payment would be refunded. On March 24, 2010, the Board issued a Secretary's letter indicating that all main extension applications and contributions received on or after December 30, 2009, would be treated as though they would serve areas designated for growth. By order dated July 19, 2013, the Board found that all 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 be re-evaluated. (*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). The July Order is posted on the Board's website at: <http://www.nj.gov/bpu/pdf/boardorders/2013/20130719/7-19-13-9C.pdf>.

Specifically, the Board ordered the regulated entities to refund to applicants who paid the full cost of an extension to serve an area not designated for growth from March 20, 2005 through December 30, 2009, the amount that the regulated entity would have refunded to the applicant had the extension been built to serve an area designated for growth. The July Order included instructions for the refunds of these amounts and the regulated entities have initiated the refund process.

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

Amendments are proposed at N.J.A.C. 14:3-8.1(a), to state that this subchapter governs: 1) whether an extension is placed overhead or underground; 2) how much of the cost of an extension is paid by an applicant for the extension; 3) whether the regulated entity requires a deposit; 4) and, 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. The Board is proposing to delete subsection (b), discussing whether and how a regulated entity may contribute financially to an extension in response to an application for an extension, and subsection (c), regarding how much a regulated entity is authorized to pay for or financially contribute to an extension. The Board is proposing to amend recodified subsection (d) to state that this subchapter sets forth if a regulated entity may require a deposit from an applicant, and, if so, how much of the deposit will be refunded to the applicant and on what schedule. The Board is proposing to delete subsection (g), which states that this subchapter contains provisions that generally do not permit regulated entities to invest, in response to an application for an extension, in new infrastructure in areas that are not designated for growth. The Board is proposing to add new subsection (f), which provides that 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.

Amendments are proposed at N.J.A.C. 14:3-8.2, Definitions. The term "extension" is proposed for amendment to provide that it applies to a structure or property for which the applicant has requested service. The term "cost" is proposed for amendment to provide that it includes expenses incurred in the actual design, but does not include expenses for dispatching. The term "generation" is deleted.

Amendments are proposed at N.J.A.C. 14:3-8.4(g), where electric and telecommunications service are added to specify the type of "underground service," paragraph (g)1 is merged into subsection (g), the words "In a designated growth area, the" are deleted, and the cross-

reference at the end of the paragraph is revised from N.J.A.C. 14:3-8 to N.J.A.C. 14:3-8.5; and paragraph (g)2 is deleted, which discusses an area not designated for growth.

Amendments are proposed at N.J.A.C. 14:3-8.5, which discusses general provisions regarding the cost of extensions. The Board proposes to delete subsection (a), providing that a regulated entity shall not pay for or financially contribute to the cost of an extension and replace it with a provision stating that 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 the regulated entity and the applicant cannot agree on the applicant's cost of an extension, 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. Subsection (c) is also proposed for amendment to add a cross-reference to N.J.A.C. 14:3-8.6. At subsection (d), the Board proposes to add a provision allowing an applicant, where practicable, to dig the portion of the trench located on the property to be served. At subsection (e), the Board proposes to add a provision that a regulated utility's 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. The Board proposes to delete subsection (f), distinguishing between growth areas and areas not designated for growth. The Board proposes a new subsection (f), which provides that if a regulated entity requires that the applicant pay a deposit or non-refundable contribution, the regulated entity shall first provide the applicant with detailed cost information, including the total cost of the extension, the estimated annual distribution revenue offset, the total amount of the deposit or non-refundable contribution required, and the tax consequences under TRA-86. An amendment of subsection (h) is proposed to delete the distinction of a designated growth area. The Board proposes deleting subsections (i) through (l), which set out requirements for extensions in growth areas and not for growth areas.

The Board proposes to repeal N.J.A.C. 14:3-8.6, which governs costs for extensions serving an area not designated for growth, and replacing it with a proposed rule governing deposits, contributions, and refunds for extensions and their treatment under the Tax Reform Act of 1986.

The Board proposes to repeal N.J.A.C. 14:3-8.7, which addresses costs for extensions serving a designated growth area, and 8.8, which addresses exemptions from cost limits on areas not designated for growth.

The Board proposes amending N.J.A.C. 14:3-8.9 by deleting subsection (a), containing the requirement that regulated utilities apply the formulae for allocating extension costs only if certain criteria are met. At subsection (b), the Board proposes adding that 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. At subsection (c), the Board proposes that for both types of formulae (single residential customer and other), the regulated entity may require the applicant to provide a deposit, rather than mandate that the regulated entity require a deposit. At paragraph (d)1, the Board proposes an amendment to add a cross-reference to N.J.A.C. 14:3-8.6 and a subsection (e), the Board proposes an amendment to add a requirement that the utility shall notify the applicant in writing. At paragraph (g)4, the Board proposes adding that any tax consequences that are included in a deposit pursuant to N.J.A.C. 14:3-8.6 must be refunded under the suggested formula.

The Board proposes amending N.J.A.C. 14:3-8.10 by deleting the words "Designated growth area suggested" in the heading to make clear that the section is being amended, as proposed, to address the suggested formula for allocating extension costs for multi-unit or nonresidential development. Subsection (a) is proposed to be amended to 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, and is also amended to state that 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 utility under the Tax Reform Act of 1986, which is addressed in N.J.A.C. 14:3-8.6. The subsection is amended to explain that the 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. Subsection (b) is

amended to require that an estimate must be in writing. Subsection (c) is amended to better clarify how different phases of a project will be considered. At subsection (d) and N.J.A.C. 14:3-8.11(e), the Board proposes to amendments to provide that the multiplier that shall be used will be 10 for gas, electric, and telecommunications entities and 2.5 for water and wastewater regulated entities over the applicable multi-year period and to explain the method to be used to calculate the refund over the applicable multi-year period. Subsections (f) and (i) are proposed to be amended to provide that the multiplier that shall be used in the calculation formula will be 10 for gas, electric, and telecommunications regulated industries, and 2.5 for water and wastewater regulated industries.

The Board proposes amending N.J.A.C. 14:3-8.11 by deleting designated growth area from the heading and proposing to amend subsection (a) to explain that 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. Subsection (a) is also proposed to be amended to delete the requirement that the extension meets the criteria for serving a designated growth area, and to delete the requirement that the extension is not covered by a Targeted Revitalization Incentive Program (TRIP) area under N.J.A.C. 14:3-10. Subsections (b), (c), (d), (f), and (g) are proposed to be amended to provide that the multiplier that shall be used in the calculation formula will be 10 for gas, electric, and telecommunications regulated industries, and 2.5 for water and wastewater regulated industries.

The Board proposes to repeal N.J.A.C. 14:3-8.12, which set forth the process to cover certain infrastructure investments under a smart growth infrastructure investment program (SGIIP).

The Board proposes adding new N.J.A.C. 14:3-8.14 requiring utilities to provide individual or public notice, depending upon the specific utility's ability to identify eligible customers, and consistent with the method used by the utility in complying with the Board's July 19, 2013 Order to notify customers that persons or entities that paid contributions for extensions built to serve Areas Not Designated for Growth between March 20, 2005 and December 30, 2009, may be entitled to a refund of all, or a portion of, the contribution. The new proposed section also addresses the refund process, including requirements regarding proof of entitlement to a refund by an applicant, the duties and responsibilities of regulated entities to provide refunds, and the applicable time frames for the notice and refund process.

The Board proposes to repeal N.J.A.C. 14:3-10, which sets out rules for the Targeted Revitalization Incentive Program (TRIP). The purpose of a TRIP is to provide data and case studies to guide the Board in future smart growth policy making. This is no longer applicable under the proposed chapter. Accordingly, the Board is proposing to repeal the subchapter.

The Board has provided a 60-day comment period on this notice of proposal, therefore, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeals, and new rules will have a beneficial social impact because they will continue and improve basic requirements that ensure that New Jersey utility consumers receive safe, adequate, and proper service at reasonable rates. The proposed deletions and repeals remove provisions distinguishing between growth areas and not for growth areas as required by the New Jersey Superior Court in the *Centex Decision* and the *Main Extension Decision*. Many of the changes proposed reorganize and clarify the requirements of the rules, enabling utilities to understand and comply with the rules more easily, and enabling the public to more easily monitor utility compliance with the rules.

Economic Impact

The proposed amendments, repeals, and new rules are not likely to have a significant economic impact, in that they continue existing requirements that ensure that public utilities provide safe, adequate, and proper service at a reasonable rate. In addition, the changes ensure that customers that were charged for extensions in not for growth areas of the State receive a refund of their deposit. The Board believes that the

obligations imposed by the rules are reasonable and necessary to ensure that utilities continue to provide safe, adequate, and proper service, both on near-term and long-term bases. While the Board may incur some costs in monitoring compliance with the rules, the rules have no adverse economic impact on the Board. Finally, the reorganization and clarification of the rules will provide a minor economic benefit to utilities and customers by increasing predictability, reducing confusion, and minimizing time spent interpreting the rules.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed 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 proposed amendments, repeals, and new rules.

Jobs Impact

The Board does not anticipate that the proposed amendments, repeals, and new rules will have any impact on jobs in New Jersey. The rules when adopted will continue existing programs, which require utilities to meet minimum standards for service, billing, recordkeeping and reporting, extensions, and audits. While a public utility may need staff to ensure compliance with the rules, the rules are necessary to ensure proper utility service to customers, and any staff needed will already be in place as the rules have been in effect for some time.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

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

While proposed amendments, repeals, and new rules do impose some recordkeeping, reporting, and compliance requirements, many of the requirements also benefit the utilities, in that they set uniform standards to which all utilities must adhere, thus providing clear guidance for the treatment of customers, and protecting individual utility companies from undercutting by others with lower standards. The recordkeeping, reporting, and compliance requirements include: 1) regulated entities providing individual or public final notice to eligible applicants within 60 days of the publication of the rules; 2) regulated entities designating a contact person for applicants to contact regarding refund requests; 3) regulated entities posting on their website instructions and contact information for filing for refunds; and 4) regulated entities notifying applicants within 30 days in writing that they received the applicants refund claim. In addition, regulated entities are required to file a report commencing 60 days after the effective date of these rules, and every 60 days thereafter for two years, with the Board Secretary, and the director of the appropriate Board of Public Utilities division. Compliance with these requirements should not require utilities to employ professional services, as the requirements can be met utilizing personnel necessary for the normal conduct of their business.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the regulation of underground facilities operators performing excavation or demolition.

Smart Growth Development Impact Analysis

The Board anticipates that the proposed amendments, repeals, and new rules will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to the regulation of underground facilities operators performing excavation or demolition.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14:3-8.6, 8.7, 8.8, 8.12, and 10.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [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; 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.**

[(b) This subchapter addresses whether and how a regulated entity may contribute financially to an extension made in response to an application for an extension by a person, as these terms are defined at N.J.A.C. 14:3-1.1 and 8.2. Any other extension is not subject to this subchapter; nor is any maintenance, repair or operation of an extension; or any expansion, upgrade, improvement, or other installation of plant and/or facilities, wherever located.

(c) This subchapter includes provisions regarding whether an extension shall be placed overhead or underground, and the extent to which a regulated entity may pay for or financially contribute to the costs of an extension. How much a regulated entity is authorized to pay for or financially contribute to an extension varies based on whether the customers that the extension will serve are located in an area not designated for growth, a designated growth area, a smart growth infrastructure incentive program (SGIIP) area, or a targeted revitalization incentive program (TRIP) area, as described at N.J.A.C. 14:3-8.12 and 14:3-10, respectively.]

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

[(f)] **(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.**

[(g)] This subchapter is intended to fulfill the mandate at N.J.S.A. 48:2-23 that regulated entity service be safe, adequate and proper, and furnished in a manner that tends to conserve and preserve the quality of the environment. One way in which this subchapter fulfills that mandate is through provisions that generally do not permit regulated entities to invest, in response to an application for an extension, in new infrastructure in areas that are not designated for growth.]

[(h)] **(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, [purchase,] construction, and/or installation of the extension, including overhead directly attributable to the work, as well as overrides or loading factors, such as those for [back-up personnel for] mapping[, records,] **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 [one or more applicants for an extension, to a structure that was built, or rebuilt after an existing structure was demolished, and occupied after March 20, 2005] **a structure or property for which the applicant has requested service.** This term also means the plant and/or facilities themselves. [The provision of water and wastewater treatment service by a regulated entity shall be considered an extension regardless of the date of construction and occupancy of the structure to be served.] This term includes all plant and/or facilities for transmission and/or distribution, whether located overhead or underground, on a public street or right of way, or on 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 [6] **5** below. An extension begins at the existing infrastructure and ends as follows:

1.-5. (No change.)

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

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 [as follows] **in accordance with this subsection**, regardless of who actually performs the construction[:

1. In a designated growth area, the]. **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[; and

2. In an area not designated for growth, a regulated entity's ability to pay for or contribute financially to extensions is governed by N.J.A.C. 14:3-8.5 and 8.6.]

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

14:3-8.5 General provisions regarding costs of extensions

[(a) A regulated entity shall not pay for or financially contribute to the cost of an extension, as defined at N.J.A.C. 14:3-8.2, except in accordance with this subchapter or N.J.A.C. 14:3-10. This section applies in addition to the requirements of N.J.A.C. 14:3-8.6 or 8.7, whichever is applicable.]

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

(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)li above, multiplied by the number of units of that item; and

iii. The sum of all items in (f)lii. 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[, in a designated growth area,] a regulated entity chooses to construct an extension or portion of an extension with additional capacity[, over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity [may pay for or contribute financially to the incremental cost of the additional capacity, but] may not require the applicant to pay for such additional capacity.

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

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

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

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

[(m) (i) (No change in text.)

[(n) (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 [regulatory] regulated entity shall determine the site-specific unitized cost by:

1.-3. (No change.)

4. Adding up the results obtained under [(n)3] (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), 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). 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), 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), 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), 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 depreciation 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 [Designated growth area suggested] Suggested formulae for allocating extension costs—general provisions**

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

1. The extension is subject to N.J.A.C. 14:3-8.7;
2. The extension is not included in a Board-approved TRIP Program;
3. The extension is not exempt on the basis of a significant public good or an extraordinary hardship under N.J.A.C. 14:3-8.8(h) or (i), respectively. If an extension is exempt under N.J.A.C. 14:3-8.8(h) or (i), its costs shall be distributed in accordance with N.J.A.C. 14:3-8.8(k)3; and
4. Either the regulated entity or the applicant for an extension submits a request to the Board to apply the suggested formula, based on the parties' inability to reach agreement upon the amount of the regulated entity's financial contribution to the extension.] **(Reserved)**

(b) If a regulated entity or applicant [requests application of] **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 [shall] to provide [the regulated entity with] 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 [include] **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; [and]
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[s] 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[(g)](h).

14:3-8.10 [Designated growth area suggested] 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 [subject to N.J.A.C. 14:3-8.7, except for an extension for a single residential customer, which is covered under N.J.A.C. 14:3-8.11, an extension covered by a SGIIP under N.J.A.C. 14:3-8.12, or an extension included in a Board-approved TRIP under N.J.A.C. 14:3-10] **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 [requirements of] **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 [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 **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.

(Office of Administrative Law Note: The text of the proposed additions to Examples A1 and A2 below appear in boldface with italics *thus*; those portions of the examples appearing in boldface are intended to be so permanently.)

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

	<u>When?</u>	<u>Action</u>	<u>Amount for Gas, Electric, and Telecom</u>	<u>Amount for Water and Wastewater</u>
<u>Year one</u>	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
<u>End of year one</u>	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
<u>Year two</u>	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

<u>End of year two</u>	Two years have passed since deposit was provided	<p>Regulated entity gives applicant second annual refund, based on customers that were served for all of year two. Refund is calculated as follows:</p> <p>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</p> <p>ii. Determine the sum of:</p> <ul style="list-style-type: none"> • 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; <p>iii. Subtract ii above from i above, resulting in a difference of \$120.00; and</p> <p>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.</p>	\$1,200.00	\$300.00
<u>Year three</u>	After second annual refund	Amount of deposit remaining with regulated entity.	\$5,000.00	\$1,250.00
<u>Year three</u>	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
<u>Year three</u>	After fourth customer startup refund	Amount of deposit remaining with regulated entity	\$1,500.00	\$375.00
<u>End of year three</u>	Three years have passed since deposit was provided	<p>Regulated entity gives applicant third annual refund, based on customers that were served for all of year three. Refund is calculated as follows:</p> <p>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</p> <p>ii. Determine the sum of:</p> <ul style="list-style-type: none"> • 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; <p>iii. Subtract ii from i above, resulting in a difference of \$210.00; and</p> <p>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.</p> <p>Since \$2,100 exceeds the remaining deposit, the regulated entity gives the applicant the remainder of the deposit (\$1,500).</p> <p><i>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).</i></p> <p>Transaction is complete.</p>	\$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] 10-unit residential development

Second year produces less revenue

	<u>When?</u>	<u>Action</u>	<u>Amount for Gas, Electric, and Telecom</u>	<u>Amount for Water and Wastewater</u>
<u>Year one</u>	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
<u>End of year one</u>	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
<u>Year two</u>	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
<u>End of year two</u>	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
<u>Year three</u>	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	<p>Regulated entity gives applicant third annual refund, based on customers that were served for all of year three. Refund is calculated as follows:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> • 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. <p>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.</p> <p>Transaction is complete.</p>	\$2,700.00	\$675.00

14:3-8.11 [Designated growth area suggested] **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 [meets the following criteria:

1. The extension] 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.**

[2. The extension meets the criteria for serving a designated growth area at N.J.A.C. 14:3-8.7; and

3. The extension is not covered by a TRIP under N.J.A.C. 14:3-10.]

(b) To determine the deposit required for an extension [to serve a single residential customer] 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 [a 10-year] **the applicable multi-year period**; and
3. Subtract the estimated [10 year] **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 [initial customer's annual] refunds **to the original applicant** to reflect the [additional] **distribution revenue from the additional customers**. [In such a case, the regulated entity shall add to the initial customer's refund an amount 10 times the distribution revenue derived from the additional customers for that year. This additional distribution revenue shall include the following: 1.] For a water main extension, **this additional distribution revenue shall include** amounts paid by a municipality for fire protection during the year[; and]. [2. For a telecommunications extension, amounts earned or saved during the year through use of the extension to carry the regulated entity's toll circuits.] **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

<u>When?</u>	<u>Action</u>	<u>Amount for Gas, Electric, and Telecommunications</u>	<u>Amount for Water and Wastewater</u>
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 [on line] online	If first year distribution revenue is less than estimated annual distribution revenue (\$500.00), no refund. 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).	\$250.00	\$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. 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).	\$500.00	
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).

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), 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) and every 60 days thereafter until (two years after effective date of this rule), 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)

TRANSPORTATION
(a)

MOTOR VEHICLE COMMISSION
REGULATORY AFFAIRS (COMMERCIAL PASSENGER TRANSPORTATION)

Zone of Rate Freedom

Proposed Amendment: N.J.A.C. 16:53D-1.1

Authorized By: Raymond P. Martinez, Chairman, Motor Vehicle Commission.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21, and 48:4-2.20 through 2.25.

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

Proposal Number: PRN 2014-218.

Submit written comments by January 30, 2015, to:

Kate Tasch, APO
Attention: Regulatory and Legislative Affairs
New Jersey Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, New Jersey 08666-0162
or electronically at: rulecomments@mvc.nj.gov.

The agency proposal follows:

Summary

The public comment period for this notice of proposal will be 60 days, since the notice is not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (the Commission) proposes to amend the provisions of N.J.A.C. 16:53D, Zone of Rate Freedom. The Commission is statutorily obligated to establish for each calendar year a Zone of Rate Freedom (ZORF) for regular route private autobus carriers providing service within the State. See N.J.S.A. 48:4-2.21, as amended by P.L. 2003, c. 13, § 98. See also N.J.S.A. 48:4-2.20 through 2.25.