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Agency

PUBLIC UTILITIES > BOARD OF PUBLIC UTILITIES

Administrative Code Citation

Proposed Readoption with Amendments: N.J.A.C. 14:3-8.5

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

N.J.A.C. 14:3-8.5 General provisions regarding costs of extensions

(a) – (b) (No change.)

(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] **Internal Revenue Code (IRC)**, in accordance with N.J.A.C. 14:3-8.6.

(d) – (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. A detailed estimate of the total cost of the extension, including:
  - i. An itemization of the number of units of each item required to build the extension (for example, the number of feet of wire, feet of pipe, feet of conduit, feet of trench, number of transformers, number of valves, and number of labor hours);
  - ii. The cost per unit for each item listed under (f)1i above, multiplied by the number of units of that item; and
  - iii. The sum of all items in (f)1ii. This sum shall equal the total estimated cost of the extension;
2. The estimated annual distribution revenue offset, if any;
3. The total amount of the deposit or non-refundable contribution required; and
4. If any portion of a deposit or non-refundable contribution is taxable under [Tax Reform Act of 1986 (TRA-86)] **the IRC**, and the regulated entity has decided to include the [TRA-86] **IRC** 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) – (j) (No change.)

**N.J.A.C. 14:3-8.6 Deposits, contributions, and refunds – [Tax Reform Act of 1986] 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 under the [Tax Reform Act of 1986 (TRA-86)] **IRC**; and
  2. Includes in the deposit or non-refundable contribution the associated tax consequences incurred by the regulated entity under [TRA-96] **the IRC**.
- (b) If a regulated entity includes in a deposit or non-refundable contribution the tax consequences incurred by the regulated entity under [TRA-86] **the IRC**, all deposit refunds shall also include the associated tax consequences incurred under [TRA-86] **the IRC**. Effective [January 20, 2016], 2021, these tax consequences shall be determined in accordance with this section.
- (c) The [TRA-86] **IRC** 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, **water or wastewater** regulated entity, calculated using the [TRA-86] **IRC** Gross-Up Factor Template posted on the Board's website [, <http://www.state.nj.us/bpu>] at [www.bpu.state.nj.us](http://www.bpu.state.nj.us).
- (d) To determine the amount of a deposit or non-refundable contribution that includes the associated tax consequences incurred under [TRA-86] **the IRC**, the regulated entity shall:
  1. Determine the amount of the deposit or non-refundable contribution, before including the tax consequences of [TRA-86] **the IRC**;
  2. Determine the portion of the base deposit or non-refundable contribution that is taxable under [TRA-86] **the IRC**. This is the "taxable amount";
  3. Multiply the taxable amount determined under (d)2 above by the regulated entity's [TRA-86] **IRC** gross-up factor determined under (c) above. The result is the "grossed up" portion of the base 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 under [TRA-86] **the IRC**; and
  5. To determine the dollar amount of the regulated entity's associated tax consequences incurred under [TRA-86] **the IRC**, 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 IRC**, 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 IRC**, 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] **the IRC**;
  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 [January 20, 2016] **2021**. 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 IRC**. The sum is the refund amount.
- (f) Each regulated entity that collects deposits and non-refundable contributions that are taxable under [TRA-86] **the IRC** shall comply with all of the following:
1. No later than [January 10, 2016] **2021**, each regulated entity that utilizes electric and/or gas depreciation rates shall calculate its [TRA-86] **IRC** 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] **2021**, each regulated entity that utilizes water and/or wastewater depreciation rates shall calculate its [TRA-86] **IRC** 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 [January 10, 2016] **2021**, each regulated entity that utilizes telecommunication depreciation rates shall calculate its [TRA-86] **IRC** 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] **IRC** 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] **IRC** 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.

N.J.A.C. 14:3-8.9 Suggested formulae for allocating extension costs—general provisions

- (a) – (c) (No change.)
- (d) For purposes of determining the amount of the deposit and applying the suggested formula, the following shall apply:
1. The regulated entity shall estimate the cost of the extension in accordance with the applicable tariff, and shall add the tax consequences incurred by the regulated entity under the [Tax Reform Act of 1986] **IRC** as a result of receiving the deposit, as detailed in N.J.A.C. 14:3-8.6;

2. The regulated entity shall assume that the electric service connection to each building will be at the nearest corner of the building to the point at which the service enters the property;
3. If an applicant requests service that costs more than that which is standard under the regulated entity's and/or the industry's system design standards, or if an extension presents an unusual situation in which providing standard service is substantially more expensive than usual, the regulated entity may charge the applicant or the customer for the extra expense. In accordance with (h) below, this charge is not refundable. For example, for an underground extension, costs of pavement cutting and restoration, rock removal, blasting, or unusual or difficult digging conditions requiring equipment and methods not generally used may be charged to the applicant. In such a case, the regulated entity shall not charge the applicant more than the actual cost for the extra work required; and
4. If the extension requires a regulated entity to pay an attachment charge for the use of utility poles located on private property and not owned by the regulated entity, the regulated entity may include the cost of the attachment charge when calculating the cost of the extension.

(e) – (h) (No change.)

#### N.J.A.C. 14:3-8.10 Suggested formula for allocating extension costs--multi-unit or nonresidential development

- (a) This section governs how Board staff will apply the suggested formula to the cost of an extension that is not covered by the provisions for extensions to a single residential customer at N.J.A.C. 14:3-8.11. The requirements in this section apply in addition to the general provisions for the suggested formulae at N.J.A.C. 14:3-8.9. This section does not address how deposits, non-refundable contributions, and refunds will be grossed up to reflect the tax consequences incurred by the regulated entity under the [Tax Reform Act of 1986] **IRC**, 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) – (i) (No change.)

#### N.J.A.C. 14:3-8.11 Suggested formula for allocating extension costs--single residential customer

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

(b) – (g) (No change.)