

(c) Un-embalmed human remains kept for more than 24 hours shall be placed in a refrigerated storage facility.

#### 13:44J-9.7 Receiving remains for cremation

(a) An operator shall appoint an employee or employees who are responsible for accepting human remains for cremation.

(b) A person appointed pursuant to (a) above shall, prior to accepting human remains, review and inspect the following:

1. Cremation authorization and receipt form(s) that contains the information required by N.J.A.C. 13:44J-9.3;
2. Cremation permit required by N.J.A.C. 8:9 Appendix A or a similar form from another state; and
3. The casket or container to ensure it complies with the requirements of N.J.A.C. 13:44J-9.5.

(c) A person appointed pursuant to (a) above shall:

1. Prepare and sign the authorization and receipt form(s) pursuant to N.J.A.C. 13:44J-9.3 and provide a copy to the funeral director delivering the decedent's remains to the crematory;

2. Ensure that the name of the decedent and funeral home are clearly marked on the casket or container; and

3. Attach a copy of the authorization and receipt form(s) to the casket or container.

(d) An operator shall ensure that, from the time human remains have been delivered to the crematory until such time as the cremated human remains are released, the remains are identified through at least two separate means, one of which is a metal identification disc, or other non-combustible identification tool, in order to prevent the misidentification of remains.

#### 13:44J-9.8 During a cremation

(a) During a cremation, the operator shall ensure that someone is monitoring the cremation and temperature.

(b) Upon the completion of a cremation, an operator shall ensure that cremated human remains and casket or container residue are inspected to establish that the cremation process is completed prior to starting the cool down of the cremation unit or retort.

#### 13:44J-9.9 Removing and processing cremated human remains and casket or container residue

(a) Prior to removing cremated human remains and casket or container residue, an operator shall ensure that the metal identification disc, or other non-combustible identification tool, is checked against the authorization and receipt form(s).

(b) Non-combustible material shall be removed from cremated human remains and casket or container residue.

#### 13:44J-9.10 Temporary containers and packaging

(a) After processing pursuant to N.J.A.C. 13:44J-9.9, cremated human remains and casket or container residue shall be transferred to a leak-proof container. No other material shall be placed in the container without written instructions from the individual authorizing the cremation.

(b) The operator shall affix a label to the container with the decedent's name and the date of the cremation.

(c) Prior to affixing the label to the container pursuant to (b) above, the operator shall ensure that the metal identification disc, or other non-combustible identification tool, authorization and receipt form(s), and label are checked for consistency and accuracy.

#### 13:44J-9.11 Notification

(a) An operator shall notify the Board of any replacement or closure of a crematory.

(b) Prior to expanding an existing crematory, an operator shall notify the Board. If the Board determines that the expansion constitutes construction of a crematory, the operator shall apply to the Board for approval pursuant to N.J.A.C. 13:44J-13.8.

#### 13:44J-[9.1]9.12 Shipment of cremated human remains

[A cemetery company] An operator may ship [cremains] cremated human remains through the U.S. Postal System, using registered or certified mail, return receipt, or any other parcel service [which] that provides a delivery document. The [cemetery company] operator shall

label both the inside container and outside wrapper to identify the contents as cremated human remains. The [cremains] cremated human remains shall be securely packaged [and insured].

#### 13:44J-9.13 Annual cremation fee

(a) Operators shall submit to the Board the cremation fee pursuant to N.J.A.C. 13:44J-3.1(a)lii annually.

(b) If an operator is required to submit an annual report pursuant to N.J.A.C. 13:44J-5.6, the operator shall include the cremation fee with any other charges due to the Board that are submitted with the annual report.

### SUBCHAPTER 13. APPLICATIONS

#### 13:44J-13.1 Application for certificate of authority

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

(f) A cemetery company organized on or after December 1, 1971, applying for a certificate of authority shall submit to the Board:

1.-8. (No change.)

9. A statement and supporting evidence, if any, that the cemetery company is financially able to establish a Maintenance and Preservation Fund of \$75,000 pursuant to the requirements of N.J.S.A. 45:27-13, except that a cemetery company [operating as a crematory which is wholly independent and physically separated from any cemetery shall not be required to provide such a statement, nor shall a cemetery company which] that has been engaged in the operation of a cemetery prior to December 1, 1971, shall not be required to provide such a statement.

(g)-(k) (No change.)

#### 13:44J-13.8 [(Reserved)] Application for approval to construct a crematory

(a) Construction of a crematory shall not begin without, in addition to any other statutory or regulatory requirements, prior Board approval.

(b) An entity that wishes to construct a crematory shall submit to the Board:

1. A completed application for approval to construct a crematory;
2. Construction plans for the crematory;
3. A copy of the authorization and receipt form(s) for cremations;
4. Procedures for conducting cremations;
5. Rules and price lists regarding cremations; and
6. An application fee as set forth at N.J.A.C. 13:44J-3.1(a)liv(11).

(c) Upon receipt of an application for approval to construct a crematory, the Board shall notify the Department of Health that it has received the application.

## PUBLIC UTILITIES

### (a)

#### BOARD OF PUBLIC UTILITIES

#### Wastewater System Improvement Charge

#### Proposed New Rules: N.J.A.C. 14:9-11

Authorized By: New Jersey Board of Public Utilities, Joseph L.

Fiordaliso, President; Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, and Robert M. Gordon, Commissioners.

Authority: N.J.S.A. 48:2-13, 20, and 24.

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

BPU Docket Number: WX19050614.

Proposal Number: PRN 2020-035.

Comments may be submitted through June 19, 2020, by email in Microsoft Word format, or in a format that can be easily converted to Word, to: [rule.comments@bpu.nj.gov](mailto:rule.comments@bpu.nj.gov), or on paper to:

Aida L. Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
ATTN: BPU Docket Number: WX19050614  
44 South Clinton Avenue

PO Box 350  
Trenton, NJ 08625-0350

The agency proposal follows:

#### Summary

The Board of Public Utilities (“BPU” or “Board”) proposes to create a new subchapter establishing a Wastewater System Improvement Charge (WSIC) at N.J.A.C. 14:9-11. The Board has determined that a WSIC program in New Jersey is necessary to provide a mechanism for wastewater utilities to accelerate the level of investment needed to promote the timely rehabilitation and replacement of certain non-revenue producing, critical wastewater infrastructure components, which will enhance the safety and reliability of aging wastewater infrastructure. Wastewater infrastructure is primarily the sewer system.

This proposed new rules are analogous to the existing Distribution System Improvement Charge (DSIC) rules for water utilities at N.J.A.C. 14:9-10, but unlike the DSIC program that requires a water utility to complete Board-approved DSIC projects in a particular order, the proposed WSIC program will allow wastewater utilities the discretion to complete a Board-approved list of WSIC projects in any order that the wastewater utility chooses. In addition, the proposed new rules identify specific types of projects that are eligible under the WSIC program.

N.J.A.C. 14:9-11.1 establishes the purpose, scope, and general provisions.

N.J.A.C. 14:9-11.2 sets forth definitions.

N.J.A.C. 14:9-11.3 outlines the eligible investments for recovery under a WSIC and explains the spending requirements that must be met before a wastewater utility can recover them under an approved WSIC.

N.J.A.C. 14:9-11.4 details the process by which the Board shall authorize the implementation of a WSIC and outlines certain requirements for a WSIC foundational filing.

N.J.A.C. 14:9-11.5 details the WSIC filing reporting requirements and establishes a timeframe for a WSIC filing.

N.J.A.C. 14:9-11.6 sets forth the ability to recover WSIC-eligible plant investments during a base rate case.

N.J.A.C. 14:9-11.7 sets forth the carry over provisions for costs resulting from foundational filings.

N.J.A.C. 14:9-11.8 determines when a wastewater utility shall stop accessing a WSIC and the documentation that must be submitted to the Board to assure that the wastewater utility is earning the approved amount on its investment.

N.J.A.C. 14:9-11.9 defines the terms used in calculating the WSIC rate and sets forth both the WSIC and WSIC cap formulas.

N.J.A.C. 14:9-11.10 details requirements for a wastewater utility to bill for a WSIC and sets forth the information needed for billing purposes.

As the Board has provided a 60-day comment period on this notice of proposal, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is exempted from the rulemaking calendar provisions at N.J.A.C. 1:30-3.1 and 3.2.

#### Social Impact

The proposed new rules will have a positive social impact on New Jersey by enabling regulated wastewater utilities to accelerate the replacement and rehabilitation of aging infrastructure, thereby preserving the integrity of the wastewater system for customers.

#### Economic Impact

The proposed new rules will have an economic impact, because they will allow for the application of a WSIC. The WSIC will be an itemized fixed amount on customers’ bills resulting in an anticipated charge of approximately \$20.00 to \$25.00 annually. The WSIC will be capped as determined by calculating five percent of the wastewater utility’s total revenues as established in the most recent base rate decision. The proposed new rules will have positive economic benefits to wastewater utility customers, in that there will be fewer unexpected and/or unplanned repairs, reduced outages, and fewer road openings. A potential reduction in combined sewer overflow events will decrease environmental and public health damages. Additional savings will likely result from economies of scope associated with the accelerated investment proposed by the WSIC rule.

#### Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed new rules have no Federal analogue and 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 incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq., does not require a Federal standards analysis for the proposed new rules.

#### Jobs Impact

The Board believes that establishing the WSIC program will encourage investment in infrastructure projects, which will have a positive jobs impact.

#### Agriculture Industry Impact

The Board does not expect any agriculture industry impact from the proposed new rules.

#### Regulatory Flexibility Statement

The proposed new rules will not impose any 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. The proposed new rules will have an impact on regulated wastewater utilities that are small businesses, only to the extent that they choose to participate in the program, which is not mandatory.

#### Housing Affordability Impact Analysis

The proposed new rules will have no impact on the affordability of housing in New Jersey and will not evoke a change in the average costs associated with housing because the scope of the rules is limited to the implementation of a WSIC for wastewater utilities.

#### Smart Growth Development Impact Analysis

The proposed new rules should not have any significant impact on smart growth, and there is an extreme unlikelihood that the proposed new rules would evoke a change in the housing production in Planning Areas 1 or 2, or within the designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed new rules concern implementation of a WSIC for wastewater utilities.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated this rulemaking and has determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

Full text of the proposed new rules follows:

#### SUBCHAPTER 11. WASTEWATER SYSTEM IMPROVEMENT CHARGE

14:9-11.1 Purpose, scope, and general provisions

(a) This subchapter establishes for wastewater (sewer) utilities in New Jersey, a voluntary Wastewater System Improvement Charge (WSIC), which is an initiative intended to create a regulatory mechanism that enables the accelerated level of investment needed to promote the timely rehabilitation and replacement of certain non-revenue producing, critical wastewater distribution components that enhance safety, reliability, public health, effluent quality, and/or conservation. Through a WSIC, after approval of the foundational filing, a wastewater utility may charge customers, up to the WSIC cap amount, for the costs of rehabilitating, improving, or replacing wastewater infrastructure in accordance with this subchapter.

(b) The purpose of a WSIC is to provide a rate recovery mechanism that encourages and supports necessary accelerated rehabilitation and replacement. As set forth under this subchapter, such investment would occur in a systematic and sustained way to advance the accelerated rehabilitation and replacement of wastewater infrastructure needed for conservation, continued system safety and reliability, improved effluent quality, and sustained economic growth in the State of New Jersey.

(c) The Board shall require frequent and detailed monitoring and reporting of expenditures during all phases of the WSIC, as set forth in this subchapter, in order to ensure prudent investment and compliance with this subchapter.

(d) All petitions to the Board regarding WSIC activities shall be submitted by the wastewater utility.

(e) A WSIC rate is interim, subject to refund, until the subsequent base rate case.

#### 14:9-11.2 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1.

“Adjusted weighted average cost of capital” does not include short-term debt, so long as the wastewater utility does not have short-term debt in its approved capital structure. The equity component of the pre-tax adjusted weighted average cost of capital will be the equity rate approved by the Board in the wastewater utility’s most recent base rate case, however, the approved embedded cost of debt will be adjusted semi-annually, to reflect the actual embedded cost of debt at the end of the WSIC recovery period, never to exceed the actual embedded cost of debt approved in the last base rate case.

“Base spending” means the level of investment equal to the wastewater utility’s depreciation expense for utility plant accounts: Account No. 320-Service Connections, Traps and Accessories, Account No. 321-Collecting Mains & Accessories, and Account No. 323 - Force Mains, as reported in the wastewater utility’s most recent annual report to the Board, at the time the foundational filing is submitted. The investments eligible for inclusion in base spending are the same as set forth at N.J.A.C. 14:9-11.3(a).

“Depreciation expense” on the WSIC assets means the amount of the total of all eligible investments multiplied by the weighted composite depreciation rate on those assets.

“Eligible investment in WSIC projects” means the total of the applicable in-service projects under this program, less the base spending requirement.

“In-service” means when a WSIC-eligible project has been replaced/rehabilitated and is functioning in its intended purpose. It is in use (that is, not under construction) and useful (that is, actively helping the utility to provide safe, adequate, and proper service).

“Pre-tax adjusted weighted average cost of capital” means the adjusted weighted average cost of capital calculated on a pre-income tax basis.

“Restoration costs” means costs necessary to restore construction to preconstruction condition, or as dictated by State, Federal, or municipal laws, rules, ordinances, orders, or regulations, including, but not limited to, paving, sidewalks, curbing, landscaping, and traffic control costs for WSIC-eligible projects approved in a foundational filing.

“Revenue factor” means a gross-up for the associated revenue taxes, uncollectibles, BPU assessment, and Division of Rate Counsel assessment, adjusted to properly reflect the revenue required to generate the agreed upon rate of return.

“Wastewater System Improvement Charge” or “WSIC” means the charge developed in accordance with this subchapter. Once implemented, the WSIC continues in effect until new base rates become effective for the wastewater utility, consistent with the requirements of this subchapter.

“Wastewater utility” has the meaning assigned to this term in the Board’s water and wastewater rules at N.J.A.C. 14:9-1.2.

“WSIC cap” or “cap” means the maximum amount of annual WSIC revenues that a wastewater utility can recover during the period the WSIC rate is in effect, through the assessment or surcharge computed in accordance with the requirements of this subchapter. The cap is established by calculating five percent of the wastewater utility’s total revenues as established in the most recent base rate decision. The outcome of that calculation establishes the maximum revenue requirement recovery level for which a wastewater utility can seek recovery through the WSIC.

“WSIC-eligible projects” mean wastewater system projects and projected costs that:

1. Are limited to non-revenue producing wastewater projects, such as replacement or rehabilitation of sewer lines (including structural and non-

structural lining projects), grouting and sealing of sewer line joints; replacement or rehabilitation of sewer laterals, manholes, force mains; and sewer lines, manholes, and sewer lateral relocations (or other utility owned sewer assets) stemming from coordination with government entities;

2. Are included in the appropriate foundational filing or semi-annual filing made by the wastewater utility with the Board, and approved by the Board, as set forth at N.J.A.C. 14:9-11.4, and/or the semi-annual WSIC reconciliation filing, as set forth at N.J.A.C. 14:9-11.5;

3. Are in excess of the wastewater utility’s base spending; and

4. The costs of which are not already being recovered through current base rates, as set by the wastewater utility’s most recently concluded base rate case proceeding.

“WSIC filing” means the filing made by a wastewater utility for each WSIC recovery period as specified at N.J.A.C. 14:9-11.5. WSIC filings shall contain actual data for the WSIC recovery period and are expected to be made approximately semi-annually.

“WSIC period” means the period of time between the effective date of the foundational filing and the rate effective date of the next base rate case.

“WSIC rate” means the amount of the assessment added to customers’ bills, calculated in accordance with the requirements of this subchapter, which will be assessed on the basis of meter charges or other Board approved charges. This rate is reviewed by the Board and reset to zero in a wastewater utility’s base rate case.

“WSIC recovery period” means each period during which WSIC-eligible projects are to be completed and put into service followed by a WSIC filing.

“WSIC revenue requirement recovery amount” means the total eligible amount to be recovered through the WSIC charge as calculated pursuant to N.J.A.C. 14:9-11.9.

#### 14:9-11.3 Investments eligible for recovery under a WSIC

(a) A wastewater utility may seek recovery for any or all of the following costs through a WSIC:

1. Sewer main replacement and rehabilitation;
2. Structural and non-structural lining projects;
3. Grouting and sealing of sewer line joints;
4. Replacement or rehabilitation of sewer laterals, manholes, and force mains; and
5. Reline or relocation of sewer lines, manholes, and sewer laterals (or other utility owned sewer assets) stemming from coordination with government entities.

(b) Each wastewater utility is required to make the base spending investment in each 12-month period contained within the authorized WSIC period in order to take advantage of the WSIC program. A wastewater utility is not required to spend the base spending amount prior to recovering WSIC expenditures. In the event that a wastewater utility fails to spend its base spending for the 12-month period, or over-recovers the WSIC revenue requirement recovery amount for the 12-month period, the wastewater utility must provide a credit to customers to be reflected in the WSIC filing, following the end of each 12-month period. The credit will consist of the impact of the shortfall of the base spending during the 12-month period. The required base spending will not be recovered through the WSIC.

1. At the time of the 12-month WSIC filing, the wastewater utility shall recalculate the WSIC rate for the prior 12 months and determine the amount of WSIC-eligible expenditures. For purposes of this calculation, all expenditures will first be used to satisfy the base amount and then be classified as WSIC-eligible expenditures.

i. If the total eligible expenditures relating to projects over the prior 12 months exceed the sum of the required base amount and expenditures for projects classified at the prior six-month WSIC filing as WSIC-eligible expenditures, no credit is due.

ii. If the total eligible expenditures relating to projects over the prior 12 months do not meet the requirements of (b)1i above, then a wastewater utility must credit any expenditures that were classified at six months as WSIC-eligible expenditures, but at 12 months were reclassified as base expenditures, or otherwise determined to be non-WSIC-eligible expenditures.

(c) Restoration costs associated with an eligible project as set forth in (a) above and approved through a wastewater utility's foundational filing, as permitted pursuant to N.J.A.C. 14:9-11.4(b)5, may be recovered if incurred prior to or within 18 months of the project's in-service date and timely included in a normally scheduled semi-annual WSIC filing.

#### 14:9-11.4 WSIC Foundational Filing

(a) The Board shall authorize the implementation of a WSIC by a wastewater utility. Under the WSIC, the Board shall authorize a wastewater utility to recover costs associated with WSIC-eligible projects through an approved WSIC rate.

(b) To obtain authorization to implement a WSIC, the wastewater utility shall submit a Foundational Filing to the Board. Whether filed separately or concurrently with a base rate case, the wastewater utility shall submit with the Foundational Filing certain information as described below:

1. An engineering evaluation report of the wastewater utility's sewer system that:

- i. Identifies the rationale for the work needed to be accelerated for the wastewater utility to properly sustain its wastewater infrastructure;
- ii. Demonstrates that the plan proposed to accelerate the renewal of the wastewater infrastructure is the most cost-effective plan;
- iii. To the extent that elements of the wastewater infrastructure are failing, identifies what mechanisms are causing the failures; and
- iv. Identifies what is being done to extend the life of the wastewater utility's wastewater infrastructure assets.

2. WSIC project information for the upcoming WSIC period that includes the following:

- i. A list of potential projects with cost estimates, WSIC-eligible asset class, or category;
- ii. A list of projects that were initiated under a prior Foundational Filing that were in-service, but not recovered in base rates as an eligible WSIC project or were not in-service at the time the WSIC rates were reset to zero pursuant to N.J.A.C. 14:9-11.6(c) and to which the utility will seek recovery of WSIC-eligible expenses under the new Foundational Filing;
- iii. A list of projects that were in-service during a prior Foundational Filing and where previously unrecovered restoration costs may be sought in a current Foundational Filing;
- iv. The nature, location, estimated duration of project work (including estimated in-service dates), and a description and reason for project necessity;
- v. Aggregate information capturing blanket-type, WSIC-eligible infrastructure, to be rehabilitated or replaced (that is, number of valves, fittings, or pipe) and the estimated annual cost of such blanket-type replacement programs;
- vi. Vintage, condition, or other similarly relevant, reasonably available information about the eligible infrastructure that is being rehabilitated or replaced;
- vii. Estimated project costs;
- viii. Project identification numbers, so WSIC projects can be easily tracked; and
- ix. Other such information, as is relevant and appropriate, in order to provide adequate information to make an informed decision regarding any given project.

3. The expected amount of base spending for the wastewater utility, including underlying detail adequate to document that the base spending has been made on the appropriate types of infrastructure including, a proposed WSIC assessment, calculated in accordance with N.J.A.C. 14:9-11.9 and work papers showing the detailed calculations supporting the proposed assessment schedule.

4. A public notice and hearing, at a minimum, are required in the WSIC Foundational Filing. The hearing notice shall include the maximum dollar amount allowable for recovery between rate cases, as well as an estimated rate impact for the entire period on customers.

5. After a Foundational Filing has been approved by the Board, a wastewater utility may select the WSIC-eligible projects from the Board's pre-approved list of potential projects. Unreimbursed utility relocation costs associated with relocations required by governmental entities, the details of which are not known or knowable at the time of the Foundational Filing, shall be submitted as a substitution project.

6. A Foundational Filing may be filed concurrently with a base rate proceeding.

(c) No WSIC Foundational Filing shall be approved unless a wastewater utility has had its base rates set by the Board within the past three years and any prior WSIC rate was reset to zero through the current, or prior, base rate case. A WSIC Foundational Filing may be approved concurrently with the setting of base rates. The Board has 120 days from the date of a complete filing or, if filed concurrently with a base rate case or during the pendency of a base rate case, until the effective date of the Board's approval of a base rate case, whichever is later, to act on the proposed WSIC Foundational Filing petition. However, Board staff may, if necessary, request the wastewater utility to agree to an extension of time for the Board to act on the petition.

(d) When a wastewater utility has its WSIC rate reset to zero, a new Foundational Filing must be approved before new WSIC investments and WSIC rate recovery may occur.

(e) If within three years after the effective date of a Foundational Filing, a wastewater utility has not filed a petition in accordance with the Board's rules for the setting of its base rates, all interim charges collected under the WSIC rate shall be deemed an over-recovery, and shall be credited to customers in accordance with this subchapter. A wastewater utility may seek recovery of such projects in the ordinary course through its next base rate case. Notwithstanding the above, a wastewater utility may continue to collect a WSIC charge during a pending rate case filed in accordance with this section.

#### 14:9-11.5 WSIC filing requirements

(a) Each WSIC filing made by a wastewater utility shall include the following:

1. A detailed description of all WSIC-eligible in-service projects clearly identifying any projects that are carried over from a prior WSIC period or from a prior WSIC recovery period and any restoration costs sought for in-service projects, as well as the in-service date of the project associated with the restoration costs.

2. Aggregate information capturing blanket-type, WSIC-eligible infrastructure, to be rehabilitated or replaced (that is, number of valves, hydrants, or service lines) and the actual annual cost of such blanket-type replacement programs.

3. A schedule comparing the:

i. Total spending on WSIC-eligible projects to date, during the WSIC recovery period, including the base-project spending and WSIC-project spending by Foundational Filing project identification number or blanket-project category;

ii. Actual cost of completed WSIC-eligible projects for the WSIC recovery period with the estimated costs for the projects contained in the most recent Foundational Filing or amendment thereto;

iii. In-service date of completed WSIC-eligible projects versus estimated in-service date of WSIC-eligible projects as set forth in the Foundational Filing; and

iv. Actual revenues collected through the WSIC assessment, compared with the actual revenue requirement of the WSIC-eligible projects during the WSIC recovery period, and the resultant WSIC under- or over-recovery amounts.

4. A proposed WSIC schedule outlining the WSIC charge, determined in accordance with this subchapter, and detailed information demonstrating that the proposed WSIC charge meets the requirements at N.J.A.C. 14:9-11.9. The schedule shall include either a proposed schedule for returning to customers any over-recovery in the prior WSIC recovery period, including interest at the adjusted weighted average cost of capital, or a proposed schedule for recovering from customers any under-recovery in the prior WSIC recovery period. The over-recovery, including interest, or under-recovery, shall be credited or charged to customers during the next WSIC recovery period. This information shall support the WSIC charge calculation, with documentation, detailed financial analyses, and other relevant information, showing all assumptions and calculations. All supporting financial information shall be presented in such a way as to allow the Board to evaluate whether the calculations meet the requirements of this subchapter.

5. Other documentation, as needed, to evaluate the WSIC program.

(b) WSIC filings shall be filed with the Board on a semi-annual basis, commencing approximately six months after the effective date of the Foundational Filing. A wastewater utility must submit its semi-annual WSIC filing within 15 days of the end of the WSIC recovery period. WSIC filings shall be reviewed by Board staff and the Division of Rate Counsel. In the event that Board staff or the Division of Rate Counsel identifies a particular project or projects or restoration costs associated with a project of concern contained in the WSIC filing, the wastewater utility shall remove the project or restoration costs from the list of WSIC-eligible projects. If the wastewater utility objects to the removal of a project or restoration costs from the list of WSIC-eligible projects, the wastewater utility may file a petition with the Board seeking inclusion of the project or restoration costs as a WSIC-eligible project. The wastewater utility may recover the interim surcharge associated with the WSIC-eligible projects closed or restoration costs during the WSIC recovery period not objected to by Board staff or the Division of Rate Counsel beginning 45 days after the receipt of the complete semi-annual WSIC filing, subject to refund at the Board's discretion.

(c) The semi-annual WSIC filings may include changes or updates to information provided in the Foundational Filing provided the information is material and relevant and the wastewater utility has a reasonable expectation that the change will occur during the WSIC recovery period.

14:9-11.6 WSIC-eligible plant investments during a base rate case

(a) In the event that WSIC-eligible plant additions are placed in service during the test year of a wastewater utility's base rate case, if not recovered as part of a routine WSIC filing, those plant additions shall be considered as part of the base rate case proceeding, and included in the routine test-year plant additions, consistent with existing Board rules.

(b) Notwithstanding the other provisions of this subchapter, a wastewater utility may continue to make WSIC-eligible investments and collect a WSIC charge during a pending rate case filed in accordance with existing Board rules.

(c) WSIC rates shall be rolled into base rates during a wastewater utility's subsequent base rate case and the WSIC rate shall be reset to zero.

14:9-11.7 Carry over between WSIC Foundational Filings

(a) All carry over costs permitted by this section and included in a WSIC rate shall be included in the calculation of the WSIC cap.

(b) Notwithstanding N.J.A.C. 14:9-11.4(d), a WSIC-eligible project begun, but not in-service within one Foundational Filing, can be considered a valid WSIC project in a subsequent Foundational Filing that was filed with the Board prior to the resetting of rates within the Foundational Filing where the WSIC-eligible project began.

(c) Costs of projects, authorized by a Board Order approving a Foundational Filing and placed in service by a wastewater utility between the close of the test year and the effective date of rates in the base rate case, may be recovered in the first normally scheduled semi-annual WSIC filing under the Board's new Foundational Filing Order and included in the WSIC cap.

(d) Unrecovered restoration costs of a project that was in-service during one Foundational Filing may be carried over and recovered in a subsequent Foundational Filing and included in a timely semi-annual filing, where the restoration costs would otherwise be within the timeframe set forth at N.J.A.C. 14:9-11.3(c).

(e) Notwithstanding (a) through (d) above, if a wastewater utility has not requested approval of a new Foundational Filing concurrently with, or during the pendency of, a base rate case where a prior WSIC rate was reset to zero pursuant to N.J.A.C. 14:9-11.6 or, if the Board does not approve such Foundational Filing, no project or restoration costs undertaken by the wastewater utility that were not recovered through the resetting of base rates will be eligible for WSIC recovery and a wastewater utility must seek recovery in a future base rate case.

14:9-11.8 Rate limitation

(a) The wastewater utility shall stop assessing a WSIC charge at the earlier of the following:

1. The Board finds, at any time, that a wastewater utility is not in compliance with the WSIC as approved;
2. The wastewater utility does not meet the requirements of the earnings test calculation pursuant to (b) below; or

3. Upon reaching the date upon which this chapter has expired, except that a wastewater utility may continue to assess the WSIC charge for any WSIC investments included in an approved Foundational Filing and made prior to the date this chapter expires.

(b) To determine whether a wastewater utility is earning on its WSIC investments within the amount approved by the Board, for the purposes of continued eligibility to use the WSIC program, the wastewater utility shall report the following information to the Board:

1. On an annual basis, concurrent with the WSIC filing, the wastewater utility shall submit an earnings description to the Board, in a format consistent with this subchapter.

2. The earnings description shall contain information from the wastewater utility's official books and records and shall be consistent with the wastewater utility's independently audited results of operations and its most recent annual report to the Board and shall include 12 months of actual financial information.

3. The earnings description, which shall include the following:

i. Rate base, revenues (including approved WSIC revenues not yet in base revenues), expenses, taxes, capital structure, weighted average cost of capital, approved net WSIC plant additions not yet in rate base, and other such relevant financial information as may be known to the wastewater utility;

ii. Adjustments to the information supplied, pursuant to (b)3i above, to reflect to the extent practicable, its results of operations on a ratemaking basis and include annualization, normalization, and ratemaking adjustments that are consistent with current Board policy and practices; and

iii. An earnings test calculation, in which the wastewater utility's earnings shall be subjected to an earnings test where the net operating income, including approved net WSIC revenues, is divided by the rate base, including approved net WSIC plant additions not yet in rate base.

(c) If the product of the calculation set forth in (b)3iii above exceeds the wastewater utility's most recently approved overall rate of return, as set forth in the most recent base rate order for the wastewater utility, the wastewater utility shall stop assessing the WSIC for as long as the condition persists.

(d) A wastewater utility may resume participation in the WSIC program, upon receiving Board approval, once it can demonstrate that the product of the calculation set forth in (b)3iii above no longer exceeds its last approved overall rate of return.

14:9-11.9 Calculating the WSIC rate

(a) The revenues to be recovered through the WSIC rate shall not exceed the WSIC cap, and shall be calculated as follows:

1. The eligible net investment reflects the eligible investment, less the per-book accumulated depreciation amount recorded for the specific projects, further adjusted for the recorded accumulated deferred income tax amount for the specific projects.

2. The eligible net investment shall be multiplied by the pre-tax adjusted weighted average cost of capital, plus depreciation expense, plus or minus any WSIC under-recovery or over-recovery, divided by the revenue factor, minus interest on any over-recovery, the sum of which shall be multiplied by the revenue factor, to arrive at the WSIC revenue requirement recovery amount. The calculation of amounts over-recovered or under-recovered should start with the WSIC rate effective date for the previous WSIC filing.

3. The WSIC revenue requirement recovery amount shall be divided by the number of meter equivalents, weighted by meter capacity ratio, to arrive at the WSIC rate by meter size or other Board-approved charges.

WSIC Formula (example numbers shown are for illustrative purposes only)

Eligible Investment (Qualified WSIC Additions to Utility Plant in Service (UPIS) During WSIC Period)	\$ 15,000,000 (A)
Less: Accumulated Depreciation	\$ (93,750) (B)
Less: Deferred Tax	<u>\$ (19,688) (C)</u>

Eligible Net Investment  
(net WSIC Additions to  
UPIS During WSIC Period) \$ 14,886,562  
Times Pre-Tax Rate of Return x 11.1509% (D)  
Pre-Tax Return on Investment \$ 1,659,986  
Add Depreciation \$ 375,000  
Revenue Recovery \$ 2,034,986  
Revenue Factor x 1.170858 (E)  
WSIC Revenue Requirement  
Recovery Amount \$ 2,382,680 (F)  
(A) Includes six months actual WSIC-eligible projects closed to UPIS  
during WSIC Period  
(B) Accumulated Depreciation:  
WSIC-eligible projects closed to UPIS \$15,000,000  
Composite Depreciation rate 2.5%  
Depreciation Expense \$ 375,000  
½ Year Convention (for first 6 months) \$ 93,750  
(C) Deferred Taxes:  
WSIC-eligible projects closed to UPIS \$15,000,000  
MACRS rate for 1st year water plant 4%  
Tax Depreciation 1st year \$ 150,000  
Book Depreciation \$ 93,750  
Tax Depreciation Greater than Book \$ 56,250  
Deferred Taxes at 35% \$ 19,688  
(D) Pre-Tax Rate of Return

	Ratios	Cost Rate	Weighted AVG Cost of Capital	Pre-Tax Rate of Return
Long-Term Debt	48.98%	6.26%	3.07%	3.066%
Common Equity	51.02%	10.30%	5.26%	8.08%
Subtotal Rate on Rate Base			<u>8.23%</u>	<u>11.1509%</u>

Revenue Factor:  
Dollar of Revenue \$ 1.00000  
Less: GRT Tax (0.1376004) (per most recent base rate case)  
Less: Bad Debts and Reg. Assessments (0.0066000) (per most recent base rate case)  
Less: BPU Assessment (0.0014328) (per most recent assessment)  
Less: DRC Assessment (0.0002926) (per most recent assessment)  
Revenue Remaining after taxes, bad debts, and assessments \$ .854074  
(E) Revenue (Gross-up Factor) \$ 1.170858  
(F) Revenue Requirement Recovery Amount

The WSIC Revenue Requirement Recovery Amount is limited by the WSIC cap defined in (a)2 above. For example, if the company's annual revenues established in its last base rate case were \$ 100,000,000, then the WSIC cap would be calculated as follows:

Total annual revenues from most recent base rate case of \$ 100,000,000 x 5.00% = \$5,000,000

The Company's WSIC Revenue Requirement Recovery Amount in the above example cannot be greater than \$5,000,000 per year.

14:9-11.10 WSIC billing

(a) If a wastewater utility has a Board-approved WSIC, the wastewater utility shall identify and list the amount owed by the customer, based on the WSIC rate calculated in accordance with N.J.A.C. 14:9-11.9, separately on customer bills. The WSIC rate will be reflected in bills issued on and after the effective date of the first WSIC filing and can be adjusted on the basis of subsequent WSIC filings no more frequently than every six months, up to an amount not to exceed the WSIC cap over the WSIC period.

(b) Customer bills shall reflect the WSIC rate calculated as set forth at N.J.A.C. 14:9-11.9(a)3.

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Autobus and Trolley

Proposed Readoption: N.J.A.C. 16:52

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 48:2-1, 48:2-13 et seq., and 48:4-11.

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

Proposal Number: PRN 2020-038.

Submit comments by June 19, 2020, to:

Kate Tasch, Administrative Practice Officer  
Regulatory and Legislative Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 160  
Trenton, NJ 08666-0160  
Or via email to: [rulecomments@mvc.nj.gov](mailto:rulecomments@mvc.nj.gov)

The agency proposal follows:

Summary

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

Under the "sunset" and other provisions of Executive Order No. 66 (1978), and pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 16:52, Autobus and Trolley, was scheduled to expire on March 18, 2020. As the New Jersey Motor Vehicle Commission (Commission) filed this notice of proposed readoption prior to that date, the chapter expiration date is extended 180 days to September 14, 2020, pursuant to N.J.S.A. 52:14B-5.1.c(2). The rules have been reviewed and analyzed by the Commission, and they have been found to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The Commission, therefore, proposes to readopt N.J.A.C. 16:52 without amendment.

Subchapter 1, Service, prescribes the requirements for operation of an approved autobus or trolley route. N.J.A.C. 16:52-1.1 requires that the service be commenced within 60 days of the grant of route authority. N.J.A.C. 16:52-1.2 prohibits deviation from the approved route. N.J.A.C. 16:52-1.3 prohibits discontinuance of the operation without the permission of the Commission and permits sanctions to be summarily invoked. N.J.A.C. 16:52-1.4 requires immediate reporting to both the Commission and the public of any interruption of service that is likely to continue for more than four hours. N.J.A.C. 16:52-1.5 requires that sufficient reserve equipment be maintained to operate all approved routes. N.J.A.C. 16:52-1.6 requires complete stops before all railroad grade crossings. N.J.A.C. 16:52-1.7 requires all doors to be closed while vehicles are in motion. N.J.A.C. 16:52-1.8 prohibits unnecessary conversation between drivers and passengers. N.J.A.C. 16:52-1.9 governs the filling of fuel tanks.

Subchapter 2, Public Liability Insurance, prescribes the insurance requirements for autobus and trolley utilities. N.J.A.C. 16:52-2.1 requires that forms demonstrating the required insurance coverage be filed with the Commission by any person operating motor vehicles carrying passengers for hire. N.J.A.C. 16:52-2.2 requires all autobuses to be insured and all autobus drivers to carry the prescribed proof of insurance. N.J.A.C. 16:52-2.3 prohibits as proof of insurance the use of insurance binders that did not originate at the home office of the insurance carrier.

Social Impact

Readoption of this chapter will have a positive social impact. The purpose of the rules proposed for readoption is to assure that autobus and trolley routes are consistently conducted and that the appropriate insurance is maintained. These requirements will continue to afford the traveling public reliable mass transportation by financially responsible operators.