

5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period with technical changes to correct cross-references, as set forth below.

The rules set forth at N.J.A.C. 11:19-1 provide requirements and procedures for the filing of annual and quarterly financial statement data with the National Association of Insurance Commissioners and the Department.

N.J.A.C. 11:19-2.1, 2.2, 2.3, 2.9, and 11:19 Appendices A and B set forth requirements and procedures for the submission of financial data to the Department by domestic insurers using the various FEMS subsystems. N.J.A.C. 11:19-2.4 through 2.8 are reserved.

The rules set forth at N.J.A.C. 11:19-3 provide filing and reporting requirements for licensed insurance producers with surplus lines authority and insurers eligible to transact surplus lines insurance in New Jersey. The rules outline procedures for utilizing the Surplus Lines Automation Suite (SLAS), which is a web-based software developed to assist the Department in monitoring the activities of licensees that sell surplus lines insurance to New Jersey residents and matches agent tax data to company policy data. The Department is correcting two references to the SLAS website at N.J.A.C. 11:19-3.5 from www.njsslasse.com to www.njsslase.com. N.J.A.C. 11:19-3.6 and the Subchapter 3 Appendix are reserved.

N.J.A.C. 11:19-4.1 through 4.4 and 11:19-4 Appendices A and B are reserved.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. DATA SUBMISSION REQUIREMENTS FOR ALL LICENSED PRODUCERS WITH SURPLUS LINES AUTHORITY AND ELIGIBLE SURPLUS LINES INSURERS

11:19-3.5 SLAS filing requirements for all licensed producers with surplus lines authority

(a) (No change.)

(b) All licensed surplus lines producers shall file with the Department or other authority, as required, a quarterly tax return in the form set forth on the Department's website: www.njsslase.com www.njsslase.com.

(c) The instructions and forms for completing the New Jersey surplus lines producer quarterly tax return may be found on the Department's website: www.njsslase.com www.njsslase.com.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

All Utilities

Readoption with Amendments: N.J.A.C. 14:3

Adopted Repeal: N.J.A.C. 14:3-8.14

Proposed: February 22, 2022, at 54 N.J.R. 341(a).

Adopted: July 13, 2022, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula, and Robert M. Gordon, Commissioners.

Filed: July 15, 2022, as R.2022 d.102, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3), **and with proposed N.J.A.C. 14:3-3A.1 not adopted but still pending**.

Authority: N.J.S.A. 48:2-13; 48:2-16, 16.1, 16.2, 16.3, 16.4, 17, 20, 23, 24, 25, and 27; 48:3-2.3, 3, 4, and 7.8; and 48:19-17.

BPU Docket Number: AX21070998.

Effective Dates: July 15, 2022, Readoption;

August 15, 2022, Amendments and Repeal.

Expiration Date: July 15, 2029.

Summary of Public Comments and Agency Responses:

Written comments were received by: Atlantic City Electric Company (ACE); Jersey Central Power & Light Company (JCP&L); Legal Services of New Jersey (LSNJ); the United Telephone Company of New Jersey, Inc. d/b/a CenturyLink, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Global Crossing Telecommunications, Inc., Level 3 Communications, LLC, Level 3 Telecom of New Jersey, LLC, TelCove Operations, LLC, and WilTel Communications (Lumen); Natural Resources Defense Council (NRDC); New Jersey American Water Company (NJAWC); New Jersey Division of Rate Counsel (NJRC); New Jersey Utilities Association (NJUA); and the regulated wholly owned subsidiaries of Verizon Communications, Inc., operating in New Jersey, including Verizon New Jersey, Inc. and MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, LLC d/b/a Verizon Business Services (Verizon).

General Comments

1. COMMENT: The commenter appreciates the opportunity to comment on these important regulations. To the extent that there are substantial modifications required at this phase, the commenter respectfully submits that the Board of Public Utilities ("Board" or "BPU") should repropose the rules. (ACE)

2. COMMENT: The commenter thanks the Board for the opportunity to provide these comments and appreciates the difficult task that the Board must undertake to balance the need for transparency, safety, and security with the practical implications of implementing the proposed regulations. (JCP&L)

RESPONSE TO COMMENTS 1 AND 2: The Board thanks the commenters for their comments.

3. COMMENT: The Board should delay implementation of the rule changes until January 2023, to permit utilities sufficient time to modify information technology (IT) systems and business processes. Substantial time and investment will be needed to update IT systems and business processes to ensure compliance with the modifications that are adopted. To help mitigate the costs associated with these changes, ease the administrative burden associated with "manual fixes" during the interim, while IT systems are updated, and reduce the potential need for numerous waiver requests from the utilities, the commenter encourages the Board to consider preemptively delaying implementation of these amendments. (JCP&L)

RESPONSE: The Board's rules, at N.J.A.C. 14:3, help ensure that New Jersey utility customers receive safe, adequate, and proper service at reasonable rates. The Board believes that the proposed rule modifications will enhance these rules and, therefore, they should be implemented in a timely fashion. The commenter is not requesting a delay of specific rule modifications that it believes it may have difficulty implementing on a timely basis, but rather requests a blanket delay of all the rule modifications. The Board does not believe that this would be appropriate. Should the commenter experience significant difficulties in implementing specific aspects of the proposed rules, the commenter may file a waiver request for the Board's consideration.

4. COMMENT: The commenter states that the notice of proposal notes that "[t]he primary thrust of most of the proposed amendments is to ensure adequate customer service and consumer protection" and commends the Board for reexamining the consumer protections included at N.J.A.C. 14:3, rather than simply readopting them without amendment. The commenter further states that especially notable in the draft is the expansion of certain critical protections to water and wastewater customers. This step will substantially improve access to these essential utility services for low-income households. (NRDC)

RESPONSE: The Board thanks the commenter for its comment.

5. COMMENT: The Board should codify, at N.J.A.C. 14:3, that certain customer protections will apply automatically in the event of a declared State of Emergency or Public Health Emergency. The protections should include those in Governor Murphy's utility disconnection executive order, those at P.L. 2021, c. 97 (regarding customer notifications during and after the state of emergency), P.L. 2021, c. 317 (regarding protections from

certain collections activities), P.L. 2022, c. 4 (amending P.L. 2021, c. 317), and other protections previously recommended by Rate Counsel and intervenors and participants in the Board's COVID-19 docket. (NRDC)

RESPONSE: The Governor has the ability to incorporate customer protections into any declared State of Emergency or Public Health Emergency. The Governor needs the flexibility to implement these customer protections based on the nature of the specific State of Emergency or Public Health Emergency.

6. COMMENT: The commenter asserts that continuing to apply Chapter 3 to telecommunications carriers would subject providers to unnecessary obligations and costs without commensurate benefit for their customers. Additionally, continuing to apply Chapter 3 to telecommunications carriers would bog down competition by redirecting providers' resources away from innovation and investment towards the cost of complying with artificial regulatory obligations. The Board should entirely exempt telecommunications companies from Chapter 3. If the Board does not exempt telecommunications carriers from Chapter 3 altogether, the Board should make edits to the proposed rules clarifying that certain sections of Chapter 3 do not apply to telecommunications carriers. For example, N.J.A.C. 14:3-1.3(a) requires that each public utility submit tariffs to the Board for approval prior to offering a service to the public or amending an existing service; however, N.J.S.A. 48:2-21.19 prohibits the Board from requiring local exchange or interexchange carriers to file and maintain tariffs for retail competitive services. Similarly, N.J.A.C. 14:3-7.1(e) prohibits late payment charges on residential customers, or on State, county, or municipal government entities, but N.J.S.A. 48:3-2.3 authorizes telecommunications carriers providing competitive services (as determined by the Board) to charge late fees to all customers. (Verizon)

RESPONSE: The Board notes that the commenter no longer files a retail tariff with the Board. It was withdrawn several years ago and replaced with a Product Guide. Pursuant to N.J.A.C. 14:3-1.2(a), Chapter 3 applies to all "public utilities," as defined at N.J.S.A. 48:2-13. N.J.A.C. 14:3-1.2(c) also provides, "Other Board rules apply to each of the utilities listed at (a) [of this N.J.A.C. 14:3-1.2], in addition to this chapter. If there is any conflict between those utility-specific rules and this chapter, the rules that are specific to that particular utility shall govern." N.J.A.C. 14:10, likewise, applies to telecommunications services. For instance, consistent with N.J.S.A. 48:2-21.19(a), N.J.A.C. 14:10-5.2 applies to competitive telecommunications services and provides that a "local exchange telecommunications company or interexchange telecommunications carrier providing such [retail competitive] services, may, in their discretion, file tariffs with the Board." Therefore, competitive telecommunications providers, like the commenter, may file tariffs at their discretion. While N.J.S.A. 48:3-2.3 does not prohibit telecommunications carriers providing competitive services (as determined by the Board) to charge late fees to all customers, it does not specifically authorize them to charge late fees. This section prohibits late fees for telecommunications carriers that provide regulated services to the public. As such, the Board declines to make the suggested changes.

N.J.A.C. 14:3-1.1 Definitions

7. COMMENT: The commenter recommends adding the word "utility" to any use of the word "system" in the proposed language, where the Board's intent is to identify utility systems potentially impacted by a cyber event to avoid vagueness around the ownership of a system. The commenter asserts that this change will help clarify what actions are required. (ACE)

RESPONSE: The Board does not believe that use of the word "system" creates vagueness around the ownership of a system as this section applies to utilities. Therefore, use of the word "system" in the regulation is adequate.

8. COMMENT: The commenter recommends that the term "cyber attack" be removed from the definitions section, as the term is too vague, and that reporting only be triggered for a "cyber event" where the utility has confirmed a breach. The use of the word "intent" in the definition of "cyber attack" is too burdensome for a utility to determine the intent of a bad actor. Accordingly, a utility would be responsible for reporting every attempt on the company's system. If the Board's intent is to be informed

about a particular type of event, the regulation should create a definition for those specific types of events. (ACE)

RESPONSE: The Board disagrees with the suggestion to remove the term "cyber attack" from the proposed rules. The Board believes that the broadness of this term allows Board staff the ability to collect more information than more narrow definitions would and this will better inform the Board and Board staff. Additionally, most of the utilities are already complying with reporting attacks, even if they do not result in a breach. The information can then be shared to help other utilities prepare for similar attacks. This is not inconsistent with Federal requests. For example, in February 2022, the Cybersecurity Infrastructure Security Agency (CISA) launched a website and campaign, entitled "Shields Up," requesting that all malicious activity be reported.

9. COMMENT: The proposed amendments related to cyber security should be refined to ensure that only material events are captured and that reports to the Board will provide relevant information to stay apprised of malicious breaches to the utilities' systems. The proposed definitions of "cyber breach" and "cyber intrusion" are too broad and will lead to excessive reporting. The definition of "cyber breach" references "cyber attacks" and, therefore, encompasses them. This leads to confusion because a "cyber attack" is only required to be reported pursuant to N.J.A.C. 14:3-6.7(a)6 when it "result[s] in outages and/or service issues," but a "confirmed breach" is always required to be reported without such limitation. The phrase "or cyber attack" should be removed from the definition of "cyber breach." In addition, the reference to "sensitive, confidential or otherwise protected information" in the definition of "cyber breach" should be further refined. These terms are subject to multiple interpretations and are not presently defined within the rulemaking. The Board should make the information included within this definition the type of data protected at N.J.S.A. 56:8-163. The Board should further refine subpart (i) of the definition of "cyber intrusion." It currently encompasses every piece of equipment at a utility and could lead to the reporting of incidents as small as a computer virus experienced by a single employee that works in a non-service-related department. The commenter recommends the Board clarify that subpart (i) relates to systems that can impact the operation of the electrical grid. (JCP&L)

RESPONSE: In addition to protecting sensitive and confidential information and the information technology, the Board is also concerned about the protection of the operational technology environment. The Board is concerned with the occurrences of "cyber attacks," "cyber breaches," and "cyber intrusions" as these can have serious negative effects on the utilities' abilities to provide safe and reliable service to customers. The Board believes that the broadness of the terms at N.J.A.C. 14:3-1.1 allow Board staff the ability to collect information to better inform the Board and Board staff. The Board does not believe that the use of these terms will lead to excessive reporting. It is not an error that the term "cyber attack" appears in the definition of "cyber breach." As stated in the definition of "cyber breach," a "cyber breach" includes only those "cyber attacks" that are confirmed by the utility. With regard to further defining terminology, Board staff believes the definitions are consistent and has incorporated suggested language from the utilities. Regarding the commenter's note about the definition of "cyber intrusion" leading to reporting a virus on a single computer, virus outbreaks can start with just one computer and spread if not contained. Therefore, these "cyber intrusion" incidents are also important. The current cyber threat environment warrants concern.

10. COMMENT: The commenter suggests that the Board define what it means by "medical emergency" to eliminate any suggestion that protection from utility disconnection for non-payment is limited to only acute or short-term medical conditions. (NJRC)

RESPONSE: The Board believes that the broad term at N.J.A.C. 14:3-3A.2(i) allows Board staff more leeway to protect customers as the definition of medical emergency is not limited to only acute or short-term medical conditions and feels that it needs no further clarification.

N.J.A.C. 14:3-2.1 Plant Construction

11. COMMENT: The commenter supports the new provision of wastewater extensions requiring the utility to install meters to measure wastewater service, and the requirement of curb stops and corporation stops when feasible. The commenter proposes a change to avoid sewage

back-ups and overflows by placing meters where they can measure the total output of pumped water, such as in a basement or other location where the wastewater pipe leaves the premise. Additionally, the commenter proposes that, in premises without basements that pump water directly into sanitary sewage lines, the meter shall be installed at the location closest to where the wastewater pipe leaves the premise. (NJRC)

RESPONSE: The Board declines to make the proposed change. Installing sewer meters in an inaccessible location, such as a basement, could defeat the purpose of installing meters because meter readers may not be able to gain access to read the meter. This, in turn, could lead to customers receiving too many estimated bills.

N.J.A.C. 14:3-2.7 Inspection of Property

12. COMMENT: The commenter is concerned that the Board has not proposed changes to the current text of this rule. The commenter suggests reporting requirements that are accessible to the public, and notes that the rule, while it applies to all utilities, addresses specific electric and telecommunications equipment, but fails to address gas or water equipment, neglecting below-the-ground infrastructure. The commenter recommends that in addition to addressing each pole, post, or tower, the regulations address each pipeline or main. In addition, the commenter observes that the rule does not state to whom the utility shall disclose any conditions that may interfere with sufficient service or who might have access to these disclosures. As such, the commenter proposes that the rule require utilities to disclose conditions to the BPU Executive Director and Board staff and that corrective actions be promptly noted on the Board's website. (NJRC)

RESPONSE: N.J.A.C. 14:3-2.7 applies to all utilities. The reference to "each pole, post, tower, or other structure" incorporates all utility property, both above ground and below ground. Therefore, it already covers gas or water infrastructure through the use of the words "other structure." The Board notes that there are additional utility and industry specific inspection requirements throughout the Board's rules. Regarding the proposed reporting requirements, the Board has not found a need for reports regarding this section of the rules. Additionally, the commenter has not demonstrated that there would be sufficient benefit by implementing new reporting requirements to support imposing this additional requirement on the utilities.

N.J.A.C. 14:3-2A.1 Infrastructure Investment Program--Purpose, Scope, and General Provisions

13. COMMENT: The commenter does not believe the Infrastructure Investment and Recovery regulations, which allow utilities to create an Infrastructure Improvement Plan (IIP), should be readopted. The Board should repeal or, at the very least, revise the IIP regulations as they have not produced economic benefits or created new jobs. The IIP programs are ill-conceived and require major revisions. The commenter disagrees with the practice of accelerating the recovery of any infrastructure program as single-issue ratemaking. Infrastructure investments are within the utility's control and should be part of standard rate case proceedings. Further, the utilities have not used the IIP regulations as intended by the Board. Rather, they have used them as an alternate revenue stream to bolster or maintain revenues and prolong time between base rate cases. If the Board does not choose to repeal these regulations, major revisions should be made. The utilities should be required to demonstrate that there is a sufficient business case for multi-year IIP programs. The regulations should specify that the primary purpose of IIP projects should be to increase or improve the "safety, reliability, and/or resiliency" of the electric distribution service and the utility should be required to provide studies and analyses that demonstrate that the IIP projects will do this. (NJRC)

RESPONSE: The Board believes that IIPs have produced tangible economic benefits through infrastructure investment and job creation. The Board also notes that accelerated recovery of infrastructure investments is not limited to only IIPs, as the Board has historically approved infrastructure programs filed pursuant to N.J.S.A. 48:2-21 and 48:2-21.1. Finally, the current IIP rules effectively denote the importance of enhancing safety, reliability, and/or resiliency while including appropriate minimum filing requirements at N.J.A.C. 14:3-2A.5, regarding proposed IIP projects, such as engineering evaluations and reports identifying the

specific IIP projects with descriptions of project objectives and the specific expected resilience benefits. The Board may also require utilities to submit supplemental information that the Board deems necessary to evaluate the utility's IIP petition, in accordance with N.J.A.C. 14:3-3-2A.5(c)1.

N.J.A.C. 14:3-2A.2 Project Eligibility

14. COMMENT: The commenter recommends that other non-revenue producing water and wastewater projects, not otherwise eligible for distribution system improvement charge (DSIC) or wastewater system improvement charge (WSIC) recovery under the current DSIC or WSIC rules, be listed, as well. Additional eligible water and wastewater utility plants would include non-revenue producing rehabilitation and replacement of water tanks, pumps, as well as plant upgrades related to safety, reliability, and resiliency, such as the following: SCADA (automation and control), back-up generators, treatment for emerging compounds, primary contaminants and secondary contaminants such as VOCs, iron, and manganese. Accordingly, NJAWC submits the following suggested categories of eligible projects be included at subsection (b):

- Investments made to address both existing or emerging compounds (for example, PFAS/PFOA/iron/manganese, 1, 4 dioxane, etc.);
- Installation of new production, treatment, or other plant or equipment to further resiliency, health, safety, or environmental protection for the utility's customers, employees, or the public; or
- Replacement of production, treatment, or other plant or equipment to maintain existing resiliency, health, safety, or environmental protection for the utility's customers, employees, or the public. (NJAWC)

RESPONSE: The Board's Infrastructure Investment Program (IIP) allows utilities to accelerate investment in the construction, installation, and rehabilitation of certain non-revenue producing utility plant and facilities that enhance safety, reliability, and/or resiliency. Water and wastewater utilities have the option of using either the IIP, WSIC, or DSIC. It is not the Board's intention for water and wastewater utilities to have both an IIP and a DSIC/WSIC. Any projects not explicitly described at N.J.A.C. 14:3-2A.2 may be eligible if deemed appropriate by the Board at paragraph (b)6. As such, the Board declines to make the proposed change.

N.J.A.C. 14:3-2A.4 Infrastructure Investment Program Length and Limitations

15. COMMENT: The commenter recommends elimination of the rule's current prohibition of a water utility's utilization of an IIP concurrently with the utilization of a DSIC. The DSIC provides for the rehabilitation and replacement of certain distribution system assets. Use of the IIP would permit water utilities to accelerate the replacement and rehabilitation of non-revenue producing assets, such as water tanks and pumps, as well as plant upgrades related to safety, reliability, and resiliency. The importance of providing a systematic, consumer-friendly, and cost-effective means of performing this work cannot be overstated. Perhaps more than any other utility, water utilities have the greatest need to maintain safety, reliability, and security, as the water service that these utilities provide is the only regulated utility service that is ingested. (NJAWC)

RESPONSE: The Board believes that the current requirement that water and wastewater utilities utilize either a DSIC or WSIC or an IIP gives water and wastewater utilities the flexibility to decide which recovery mechanism to use. The DSIC is a recovery mechanism that water utilities can use for replacing outdated infrastructure that is close to the end of its useful life. The WSIC is a recovery mechanism that wastewater utilities can use for replacing outdated infrastructure that is close to the end of its useful life. The IIP is a recovery mechanism that gas, electric, water, and wastewater utilities can use to recover costs associated with accelerated investment in the construction, installation, and rehabilitation of certain non-revenue producing utility plants and facilities that enhance safety, reliability, and/or resiliency. It is not the Board's intent to allow water and wastewater utilities to use all three cost recovery mechanisms. The Board has determined a company should not be permitted to utilize both the DSIC program and an IIP under this rule simultaneously, as, unlike the gas or electric utilities, the water utilities already have a

significant incentive to upgrade aging infrastructure through the DSIC rate mechanism. There is no similar mechanism for gas or electric utilities. The utility should have the option to determine which program provides the best avenue to provide safe, adequate, and proper service to ratepayers in New Jersey at a reasonable cost. The Board believes that it would result in customer confusion to allow the water utilities or the wastewater utilities to utilize the IIP recovery mechanism at the same time as the DSIC and/or WSIC recovery mechanisms, as it would result in customers receiving bills with multiple charges all related to the recovery of costs associated with infrastructure. Moreover, it would result in higher rates. The Board believes it is important to limit the use of single-issue ratemaking. Separate recovery mechanisms that look at only costs related to a single issue provide utilities with recovery of costs without reviewing whether or not there are offsetting cost reductions within the utility. For example, the replacement of outdated pipes will often lead to lower maintenance costs, as the newer pipes will leak less and require less maintenance. In addition, the utility's cost of capital can change. Therefore, the Board believes that requiring the water utilities to choose between the DSIC and the IIP and the wastewater utilities to choose between the WSIC and the IIP, allows them to decide which recovery mechanism best meets their needs. The utilities have the option to file a base rate case wherein all costs and revenues can be reviewed should they determine that they need rate relief for additional infrastructure costs. Allowing these recovery mechanisms in the manner specified by the Board balances the goals of providing an incentive to the utilities to make infrastructure improvements with the goal of limiting the use of single-issue ratemaking.

N.J.A.C. 14:3-2A.5 Infrastructure Investment Program Minimum Filing and Reporting Requirements

16. COMMENT: Regarding N.J.A.C. 14:3-2A.5(b), the commenter recommends that the rule require the IIP petitions to include clearly defined projects, based on actual empirical data and verified by site visits, supporting engineering and cost analyses, performance benchmarks, timetables for construction, together with the associated cost estimates for each stage of construction, provisions for oversight, multi-year rate impact projections, and detailed actual and projected utility financial information. This information should be updated in quarterly reports to the Board and Rate Counsel. Leaving this information for the discovery process causes unnecessary delay in resolution of the petition. (NJRC)

RESPONSE: The Board believes that the current IIP rules include appropriate minimum filing and reporting requirements. To the extent that supplemental information is deemed necessary, the Board retains the ability to require such information pursuant to N.J.A.C. 14:3-2A.5(c)1.

17. COMMENT: Regarding N.J.A.C. 14:3-2A.5(c)2iv, the commenter recommends that the rule be modified to require that an independent IIP monitor be: 1) retained; 2) paid for by the utility; and 3) operated at the direction of Board staff. The rule should explicitly state that the Board will suspend or terminate an IIP if certain benchmarks are not met. (NJRC)

RESPONSE: The Board believes that the current IIP rules sufficiently address the retention of an independent IIP monitor. Due to the varying nature of projects included within an IIP, the Board believes that it is appropriate for the need for an independent IIP monitor to be determined on a case-by-case basis, with the Board retaining the ability to require the retention of an independent IIP monitor as a condition of approval of the utility's petition. The Board also retains the ability to suspend or terminate an IIP.

18. COMMENT: Regarding N.J.A.C. 14:3-2A.5(e), the commenter suggests that an earnings test, accompanying calculations, and underlying data be included in the semi-annual reports required by this subsection, in addition to the earnings test required at N.J.A.C. 14:3-2A.6(h). The rule should require specific annual performance metrics and targets that utilities must achieve, in order to continue accelerated recovery of the IIP investments. (NJRC)

RESPONSE: The Board believes that the current IIP rules effectively protect customers by requiring an earnings test within the utility's rate recovery filings. Due to the varying nature of IIPs, the Board does not believe that it is appropriate for the IIP rules to require specific annual performance metrics and targets that utilities must achieve in order to

continue accelerated recovery of IIP investments. Any such requirements should be considered on a case-by-case basis.

N.J.A.C. 14:3-2A.6 Infrastructure Investment Program Expenditure Recovery

19. COMMENT: The Board has used the 13-month average common equity balance to estimate return on equity (ROE) for existing decoupling mechanisms for certain natural gas utilities. Common equity balances can vary by season through the year. For purposes of an ROE estimate, net income should reflect regulated, jurisdictional revenues and expenses. N.J.A.C. 14:3-2A.6(h) should be clarified to specify the use of 13-month average common equity and regulated jurisdictional net income for the earnings test. The commenter also recommends including "annualization, normalization, and ratemaking adjustments that are consistent with current Board policy and practices" in the earnings test as allowed in the DSIC through N.J.A.C. 14:9-10.8(b)3ii. (NJAWC)

RESPONSE: The Board believes that the existing IIP rules regarding the earnings test are sufficient. The current earnings test appropriately evaluates if the utility is over-earning.

20. COMMENT: Regarding N.J.A.C. 14:3-2A.6(a), the commenter believes that the filings should be annual, rather than semi-annual, as the utilities have struggled to meet the semi-annual requirement. (NJRC)

RESPONSE: The Board believes that the current IIP rules appropriately permit both semi-annual and annual rate recovery filings. Due to the varying nature of IIPs, the Board believes that it is appropriate to preserve flexibility.

21. COMMENT: Regarding N.J.A.C. 14:3-2A.6(b), the rule should be modified to clarify that the "10 percent of overall Infrastructure Program expenditures" is based upon the approved total budget for that specific utility's IIP. This will ensure that the IIP program is progressing before the utility is rewarded with recovery. The commenter also recommends that the threshold be 15 percent, rather than 10 percent. (NJRC)

RESPONSE: The Board believes that the current IIP rules sufficiently address the 10 percent spending threshold that utilities must meet in order to receive accelerated cost recovery. The Board further believes that the spending threshold of 10 percent is reasonable and appropriate, while a higher threshold could potentially be unattainable depending upon the total number of permitted rate adjustment filings.

22. COMMENT: N.J.A.C. 14:3-2A.6(b) is silent on the following features of the surcharge mechanism calculation: (1) whether to use the utility's approved capital structure from its last rate case or an updated capital structure; (2) whether to use the utility's current embedded cost of long-term debt and actual short-term debt cost rate (for utilities that include short-term debt in capital structure); and (3) whether to include the utility's approved ROE from its most recent rate case or whether the ROE should be adjusted for the lower risk associated with the accelerated recovery. If the IIP rules are intended to improve credit metrics, reduce borrowing costs and, therefore, lower costs to customers, the commenter contends that the regulation should specify a uniform surcharge calculation methodology. (NJRC)

RESPONSE: The Board believes that these issues should be considered on a case-by-case basis, rather than codified within the IIP regulations. The current earnings test appropriately evaluates if the utility is over-earning.

23. COMMENT: Regarding N.J.A.C. 14:3-2A.6(e), the commenter recommends that the rule be modified to provide that rates implemented for an IIP project that is subsequently found to be imprudent would be reversed and any related amounts collected would be returned, with interest, to ratepayers. (NJRC)

RESPONSE: The Board believes that these issues should be addressed within a base rate case proceeding, rather than codified within the IIP rules.

24. COMMENT: Regarding N.J.A.C. 14:3-2A.6(f) and (g), the commenter recommends that utilities be required to file a rate case within three years after approval of an IIP in order to avoid stale evidence, avoid overearning, and comply with the requirement of an "umbilical cord" to a rate case mandated by the Supreme Court in *Industrial Sands*. The commenter also recommends that the rules prohibit a utility from implementing an infrastructure rate increase if the utility has had a base rate increase within the prior 12-month period. (NJRC)

RESPONSE: The Board notes that the five-year timeframe for the filing of the utility's next base rate case properly aligns with the five-year maximum term of the IIP, as required at N.J.A.C. 14:3-2A.4(a). To the extent that a shorter timeframe is deemed necessary, the Board retains the ability to require a utility to file its next base rate case within a shorter period. The Board does not believe that it is appropriate to prohibit a utility from implementing an IIP rate increase if the utility has implemented a base rate increase within the prior 12-month period, as such treatment would potentially disincentivize the implementation of an IIP.

25. COMMENT: At N.J.A.C. 14:3-2A.6(h) and (i), the infrastructure surcharge rate increases are only to be permitted upon a showing that the utility's actual earnings are not unreasonably excessive. The IIP surcharge should not be used to further increase utility earnings that already are excessive. The commenter asserts that the calculation in these subsections are not sufficiently detailed. If the test is limited to regulated utility earnings, then the common equity number used in the calculation must be adjusted to exclude non-regulatory components of the common equity balances, such as acquisition premiums, goodwill, or equity not used in the provision of utility service. The regulation should also state that the calculation of "actual net income" includes adjustments, such as: 1) the exclusion of charitable contributions and lobbying expenses; 2) the exclusion from rate base of assets or liabilities associated with pensions or other post-employment benefits; 3) the inclusion of only 50 percent of incentive compensation costs as operating expenses; and 4) utilization of the utility's most recently approved capital structure to calculate the ROE. (NJRC)

RESPONSE: The Board believes that the current earnings test required at N.J.A.C. 14:3-2A.6(h) effectively and appropriately addresses the potential for utility over-earning.

N.J.A.C. 14:3-3.1 Duty to Furnish Service

26. COMMENT: The commenter suggests that N.J.A.C. 14:3-3.1(a) should be amended to address conserving water resources, in addition to the stated energy resources to be consistent with proposed N.J.A.C. 14:3-3.3(d). (NJRC)

RESPONSE: The Board believes that the existing language, which requires the utilities to furnish safe, adequate, and proper service in a manner that tends to preserve the quality of the environment, includes conserving water resources and, therefore, the commenter's requested change is declined.

27. COMMENT: The commenter proposes new language regarding customer service quality and reporting. Specifically, the commenter recommends that each utility shall not exceed one customer complaint per year, per every 1,000 of its customers. The commenter recommends that each utility be required to report to Board staff and the Division of Rate Counsel, on at least a semi-annual basis, the number of complaints that it receives from its customers. (NJRC)

RESPONSE: Board staff monitors utility customer complaints and obtains information, as warranted. In addition, Board staff conducts customer service standards and metrics meetings on a regular basis. As such, the Board declines to adopt the proposed changes.

N.J.A.C. 14:3-3.2 Customer Applications for Service

28. COMMENT: The commenter recommends that the Board evaluate the provision that allows each utility's decision to accept or reject proof of identity or proof of prior residence pertaining to application for service through "other documents" to be "at the utility's discretion." The commenter reasons that such provisions should be evaluated, so that the utilities would be required to accept a sufficient number of types of documentation that are accessible to the State's economically disadvantaged residents. The commenter recommends adding other acceptable types of proof (some of which were permitted by the Board under previous versions of the New Jersey Administrative Code), such as employment identification or an unexpired foreign passport. In addition, the commenter recommends that language be added that would require each utility to: 1. be non-discriminatory in the types of proof accepted; 2. use the same requirements throughout its service area; and 3. post these requirements on its website. (NJRC)

RESPONSE: Pursuant to N.J.A.C. 14:3-3.2(e), the rules already provide nine different types of acceptable forms of identification and

provides that the utility may also accept other documents at the utility's discretion. Therefore, the Board believes that the current rules regarding proof of identity are adequate.

N.J.A.C. 14:3-3.3 Providing Information to Customers

29. COMMENT: The commenter supports the requirement of providing information to customers through social media, and providing information about energy conservation, but also wants the provision to include information about water conservation. In addition, the commenter recommends adding language that makes it clear that conservation will reduce the need for natural gas and water infrastructure. (NJRC)

RESPONSE: The Board recognizes the importance of water conservation. The Board reviews customer protection and customer education issues on an ongoing basis, and the Board may consider additional rulemaking to address customer issues, such as this one, if it is determined to be necessary or helpful, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues. The Board welcomes the commenters' participation in this and other future rulemakings.

30. COMMENT: The commenter states that N.J.A.C. 14:3-3.3(b) should be amended to require the Customer Bill of Rights to be provided with the first bill or within 30 days of initiation of service, whichever is sooner, rather than whichever is later. Otherwise, for a utility that bills bi-monthly or quarterly, a customer could go for a long time without being informed of basic rights. Conversely, if a utility sends an initial bill sooner than 30 days after initiating service, the customer would have a payment due before being informed of their rights. The commenter further states the rules should require that utilities provide a translated version of the utility Customer Bill of Rights in any language that is the primary language of at least 10 percent of people in a municipality served by the utility. The Board is currently requiring this, until 18 months after the end of the COVID-19 state of emergency. There is no reason this practice should not be maintained. (NRDC)

RESPONSE: This is currently covered by the Customer Bill of Rights as set forth in *In re the New Jersey Board of Public Utilities' Utility Customer Bill of Rights*, Docket No. AX21091111, dated April 6, 2022, which requires utilities to provide all new customers with a copy of the Customer Bill of Rights upon initiation of service. Regarding the suggestion to maintain the statutorily mandated translation requirement as described at P.L. 2021, c. 97, the Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues such as this one, if determined to be necessary, wherein the Board can gather the necessary information and positions of the various stakeholders on the form of the Customer Bill of Rights to appropriately consider these issues. The Board welcomes the commenters' participation in this and other future rulemakings.

31. COMMENT: The commenter states that a new provision should be added requiring utilities to post prominently on their websites the following:

- Detailed information on any State-run utility assistance programs and any other financial assistance the utility offers to reduce customer's current bills or arrears. This information should be presented as a first option for people who may qualify for assistance with arrears, with a deferred payment agreement offered as a secondary option.
- The utility's current policies and procedures regarding discontinuance of service for nonpayment.
- The utility's current policies and procedures regarding billing disputes.
- The utility's current schedule of rates and charges.

Additionally, the commenter requests that the BPU promptly update the Customer Bill of Rights after the re-adoption of N.J.A.C. 14:3, to reflect any relevant amendments to the rules. (NRDC)

RESPONSE: The Board's order in *In re the New Jersey Board of Public Utilities' Utility Customer Bill of Rights*, BPU Docket No. AX21091111, dated April 6, 2022, expands upon the Customer Bill of Rights and requires that the Customer Bill of Rights be posted on the utility websites for a limited period of time. The Board will have the opportunity to review the results of having this expanded information in

the Customer Bill of Rights and posted on the website during this time frame and evaluate whether and to what extent these provisions should be expanded upon or continued.

N.J.A.C. 14:3-3.4 Deposits for Service

32. COMMENT: The utilities have concerns specifically related to proposed changes at N.J.A.C. 14:3-3.4(d), the regulation addressing when a utility may require an existing customer to furnish a deposit or increase their existing deposit if the customer fails to pay a bill within 30 days after the due date printed on the bill. Pursuant to the notice of proposal, the timeframe would be increased from 15 days to 30 days. However, the utilities respectfully recommend that the timeframe be increased to 20 days, rather than 30 days, to remain consistent with the modifications in the rulemaking of the deposit payment period requirements set forth at N.J.A.C. 14:3-3A.3(b) and 3A.9(c). (NJUA)

RESPONSE: The subsections the commenter notes are for different customer protections. The sections address requirements for: 1. deposits for service; 2. basis for restoration; and 3. notice of discontinuance for non-payment. They do not have to have the same time provisions. The Board feels that the change to this section provides additional customer protections to the Board's most vulnerable populations.

33. COMMENT: The commenter supports the proposed change at N.J.A.C. 14:3-3.4(d) that allows 30 days to pay a bill, rather than 15 days, before a utility may require an existing customer to pay a deposit. (NRDC)

RESPONSE: The Board thanks the commenter for its comment.

34. COMMENT: The commenter supports the proposed amendment at N.J.A.C. 14:3-3.4(d) requiring utilities to wait at least 30 days after a customer misses a payment to impose a new security deposit or increase the amount of an existing deposit, but suggests eliminating deposits altogether for vulnerable customers, including those eligible for the Winter Termination Program or medical emergency protection. (LSNJ)

RESPONSE: The Board declines to make the proposed changes. The Board believes that the deposit requirement strikes a balance between protecting the customer who pays the deposit and the remaining customers who bear the cost of uncollectibles that occur when a customer does not pay their bill.

35. COMMENT: The commenter states that N.J.A.C. 14:3-3.4(c) should make clear that a utility is required to refund a customer's security deposit, once the customer has established a good payment record. (LSNJ)

RESPONSE: The Board believes that the current rules address the concerns at N.J.A.C. 14:3-3.5(a) and (h).

36. COMMENT: N.J.A.C. 14:3-3.4(a) should be revised to prohibit deposits to initiate or to maintain for all residential customers or, at a minimum, for the Winter Termination Program, P.L. 2021, c. 317, § 7 (codified at N.J.S.A. 48:2-29.55) (WTP)-eligible customers and for other vulnerable populations who are entitled to heightened shutoff protections (for example, customers with a "medical emergency" or reliant on life-sustaining equipment that requires utility service to operate or maintain). Deposits essentially punish people for being poor, by charging them more than other customers, which can result in denial of access to essential services. For customers struggling to afford their monthly bills, requiring a deposit on top of their monthly bill (especially a deposit equal to twice the average monthly bill) is, by definition, unaffordable. Pursuant to N.J.A.C. 14:3-3.4(c), if the deposit turns out to be "excessive" (based on customer's actual usage), the utility should be "required" to reduce the deposit, not merely "allowed" to do so, as under the existing rule. Finally, if the customer stays current on payments for a reasonable period of time (for example, six months), the deposit should be refunded. (NRDC)

RESPONSE: The Board declines to make the proposed changes. The Board believes that the current rule and proposed rule changes protect customers and strike a balance between protecting the customer who pays the deposit and the remaining customers who bear the cost of uncollectibles that occur when a customer does not pay their bill.

37. COMMENT: The commenter notes that subsection (g) requires the utility to apply credit and deposit requirements on a non-discriminatory basis, but that there is no provision requiring a utility to ensure that applicants for service are informed about what those requirements are. (NJRC)

RESPONSE: This section includes provisions that require the utilities to apply the same credit and deposit requirements in a non-discriminatory

manner. If a utility were found to be in violation of this requirement, the Board has the ability to take action against the utility for violating the rules. A customer that is subject to credit and deposit requirements would be advised of these requirements by the utility when they are applicable. Additionally, pursuant to N.J.A.C. 14:3-3.4(g), utilities are already required to post the deposit and credit requirements on their websites. Therefore, it is not necessary to establish specific requirements for notifying customers of the credit and deposit requirements.

N.J.A.C. 14:3-3.5 Return of Deposits, Interest on Deposits

38. COMMENT: The commenter encourages the Board to consider removing the requirement to provide customers with the option to receive interest payments by a separate check, if requested. For residential customers, these payments are often less than a dollar. Pursuant to N.J.A.C. 14:3-3.5, utilities would be required to issue a check for this interest payment each month, if so requested. This is economically infeasible and would likely result in the commenter lengthening the period over which customers receive interest payments. (JCP&L)

RESPONSE: The Board believes that the current rule and proposed rule changes protect customers and do not cause undue economic harm or inconvenience to the utility. Requiring the utilities to provide customers with the option to receive interest payments by a separate check, if requested, allows customers to use the refund at their discretion.

39. COMMENT: The commenter suggests that the current rule should be amended to state that, if the utility determines that a customer's deposit should be retained, the utility shall provide the customer with notice and an opportunity to establish credit. (NJRC)

RESPONSE: The Board believes that the current rule and proposed rule changes protect customers. The current rule requires the utility to evaluate a residential customer's account at least once every year and a nonresidential customer's account at least once every two years. The customer always has the ability to establish credit between these evaluations.

N.J.A.C. 14:3-3.7 Interruptions of Service

40. COMMENT: Subsection (g) seeks to add new categories for reporting purposes during interruptions of service. Specifically, the Board is looking for utilities to report "the number of critical customers affected" during service interruptions. However, the Board does not define what constitutes a "critical customer." The definition of a critical customer could vary depending on who is making the determination. Certainly, utilities and the Board alike classify hospitals, utility facilities, and police and fire stations as critical facilities. Yet, there may be many other customers that some utilities classify as critical while others do not. To ensure compliance with the proposed change, the utilities seek clarification of what the Board considers a "critical customer." Further, a utility's ability to report the proposed "number of critical customers affected" and "the number of life sustaining/supporting customers affected" is tied directly to the utility being notified of these circumstances by affected customers. For instance, if a customer with in-home life sustaining/supporting treatments that rely on natural gas service experiences a service interruption, absent notification by said customer, the utility has no way of knowing this information, as it is not feasible to canvass an affected neighborhood to report on such instances. (NJUA)

RESPONSE: The Board recognizes the concern for a more granular definition of "critical customers" and agrees that hospitals, other utility facilities, and police and fire stations are clearly examples of critical customers. However, strictly defining this term may result in the exclusion of customers from this report that would have otherwise been included. The term allows the utility to use reasonable judgement in determining which customers fall into this category. Electric and gas utilities are already required, pursuant to N.J.A.C. 14:3-3A.4(d), to request information from customers identifying any medical or life sustaining equipment who would also be critical customers. The rules extend this requirement to water and wastewater utilities.

41. COMMENT: The commenter encourages the Board to consider exempting outages that trigger initial reporting pursuant to subsections (d) and/or (e) from follow-up reporting. More specifically, paragraphs (d)4 and (e)2 (through its cross-reference to subsection (f)) require follow-up reporting on outages impacting hospitals and schools, respectively.

Follow-up reporting on such outages is often overly burdensome and unnecessary, as they do not generally involve many customers and many of the details for a follow-up report were shared in the initial reporting. Additionally, initial reports on outages affecting hospitals and schools comprise a large number of the initial reports submitted each year. Given the frequency of the reporting and the limited nature of these outages, the commenter encourages the Board to consider modifying subsection (g) to exclude follow-up reporting for outages that were initially reported solely because they impacted these types of facilities. (JCP&L)

RESPONSE: The Board does not believe this reporting requirement is unreasonable or unduly burdensome for utilities. The Board believes that the reports are necessary based upon the nature of the outages impacting schools and medically vulnerable populations.

42. COMMENT: The commenter agrees with the proposed corrected citation at N.J.A.C. 14:10-1A.11, but wishes to amend the rule to read as follows: “(c) Telecommunications utilities shall not be subject to (d) through (f) below, but shall instead comply with the service interruption provisions in the Board’s telephone rules under N.J.A.C. 14:10-1A.10, concerning inspections, tests and maintenance, N.J.A.C. 14:10-1A.11, regarding the prevention and reporting of service interruptions and shall be subject to the provisions for out of service refunds in accordance with N.J.A.C. 14:10-2.3.” (NJRC)

RESPONSE: By contrast, the proposed rules provide, as amended: “(c) Telecommunications utilities shall not be subject to (d), (e), and (f) below, but shall instead comply with the service interruption provisions in the Board’s telephone rules at N.J.A.C. 14:10-1A.11.” The Board believes that it is already clear that telecommunications utilities are subject to all of the provisions at N.J.A.C. 14:10, and, therefore, the commenter’s requested changes are unnecessary.

43. COMMENT: The commenter recommends that since “critical customers” is not a defined term, the Board should amend the proposed language at subsection (g), to clarify what information the Board wants the utilities to report. The commenter also recommends adding requirements at (d) and (e) that the utility provide the required interruption reports to the affected municipality in addition to providing them to the Board. (NJRC)

RESPONSE: Please see the Response to Comment 40, regarding the definition of critical customer. The municipalities did not file comments in this proceeding requesting that they be provided with interruption reports. The Board does not believe the commenter has demonstrated that there is a sufficient benefit to the municipalities of receiving these reports to justify putting this additional reporting burden on the utilities. During storm events, municipalities are invited to conference calls, hosted by the utility to discuss outages in their jurisdiction. The two-way communication is faster and better for resolving concerns and providing outage update information that addresses the specific concerns that the municipality may have.

N.J.A.C. 14:3-3.8 Service Call Scheduling

44. COMMENT: The commenter wants to revise the definition of “good cause” at N.J.A.C. 14:3-3.8(d) to mean circumstances that prevent the utility from providing notice prior to the close of business on the business day prior to the appointment. In addition, the commenter recommends that all utilities be required to meet at least 95 percent of their scheduled customer service appointments and report their performance to Board staff and Rate Counsel at least semi-annually. (NJRC)

RESPONSE: Good cause presently includes, but is not limited to, situations where the customer is unavailable, system emergencies, which may or may not be weather-related, where crews are needed for repair, or other functions necessary to maintain the viability and safety of the utility’s operating system or parts thereof, or labor actions, which prevent the utility from meeting service call schedules. The provision requires the utility to show good cause for cancelling the appointment after the close of business on the business day prior to the scheduled appointment which, in turn, means that it is unable to notify the customer in the timeframe required by the regulation. As such, the Board believes that the rules are adequate. The Board declines to establish a new requirement that utilities must meet 95 percent of scheduled appointments. The reasons for cancellations are varied, and include cancellations initiated by the customer, weather-related issues, and unavailability of the customer or

utility staff. In addition, Board staff has regular meetings with utilities in which this metric is discussed and evaluated.

45. COMMENT: The commenter recommends the addition of new subsection (e) that would read, “A telephone utility shall meet at a minimum the service quality metrics and standards in accordance with N.J.A.C. 14:10-1A.8.” (NJRC)

RESPONSE: The Board believes that it is already clear that telecommunications utilities are subject to all of the provisions at N.J.A.C. 14:10, and, therefore, the commenter’s requested changes are unnecessary.

N.J.A.C. 14:3-3A.1 Basis of Discontinuance of Service

46. COMMENT: The commenter states that N.J.A.C. 14:3-3A.1(a)4 must be modified to ensure that the same protections from disconnection for nonpayment of a bill also apply to nonpayment of a deposit. This paragraph allows discontinuance of service “[f]or nonpayment of a deposit, in accordance with N.J.A.C. 14:3-3A.9.” It must be amended to state that any discontinuance on this basis is subject to the protections at N.J.A.C. 14:3-3A.2 (which prohibit discontinuance under certain circumstances). This would be consistent with the language at N.J.A.C. 14:3-3A.1(a)3, regarding discontinuance for non-payment of a bill for service, which is expressly limited by the conditions at N.J.A.C. 14:3-3A.2. (NRDC)

RESPONSE: In most cases, the rules treat nonpayment of deposits in the same way as nonpayment of bills. However, this is not true in every case. In the provisions for restoration of service at N.J.A.C. 14:3-3A.9(c), the utility may require payment of all past due charges for service as a condition of restoration. In this case, the utility will presumably have already utilized the deposit to pay down the outstanding charges. However, after service has been disconnected for nonpayment, the utility may not require payment of a new deposit as a condition of restoration, but instead must allow the customer at least 15 days to pay the deposit. Upon adoption of this rulemaking, the 15 days will be increased to 20 days. If the customer fails to pay the deposit within 20 days, then nonpayment of the deposit may become the basis for a subsequent disconnection of service, pursuant to N.J.A.C. 14:3-3A.1(a)4. When a utility reconnects a customer, the Board believes it is appropriate for a utility to require a deposit for restoration. Allowing a customer 20 days to provide the deposit will allow for quicker restoration of service than if a customer was required to pay the deposit in full in order to get restoration. The provision that the nonpayment of the restoration deposit may become the basis for a subsequent disconnection of service will help avoid instances where a customer merely promises to pay the deposit to get restored but does not pay the deposit. Amending this provision as recommended by the commenter to make discontinuance for nonpayment of the deposit subject to the protections at N.J.A.C. 14:3-3A.2, would not achieve this. The Board believes that the deposit requirement and disconnection of service provision strikes a balance between protecting the customer who pays the deposit and the remaining customers who bear the cost of uncollectibles that occur when a customer does not pay their bill. Therefore, the Board declines to make the change proposed by the commenter.

47. COMMENT: The commenter supports the proposed amendments at N.J.A.C. 14:3-3A.1(d), but recommends any notice to the customer state the reasons for the loss of utility service, and that the utility alert the municipality of the affected customers. The commenter also wants each utility to report to the Board and Rate Counsel, on at least a quarterly basis, the total amount of arrearages owed by its customers, the length of time these arrearages are past due, and the number of its customers whose service has been discontinued for nonpayment. (NJRC)

RESPONSE: The Board believes the rules protect customers. As customer service issues arise, Board staff obtains any necessary information from the appropriate utilities by requesting information that is tailored to the specific issue rather than requiring blanket information that may be less useful. Thus, the Board declines to make the suggested change.

N.J.A.C. 14:3-3A.2 Discontinuance for Nonpayment

48. COMMENT: The proposed amendment would extend to water and wastewater utilities, the requirement to provide in-person notice, and take

payment before discontinuance for residential services. This does not move the rule in the correct direction. Forcing in-person notice could subject company personnel to physical or verbal confrontations. Residential customers who continue to reside at a premises where utility service is about to be discontinued for non-payment may be experiencing financial difficulties and, therefore, may be subject to emotional stress. Additionally, accepting cash payments in-person subjects company personnel to robbery or theft. The commenter does not believe that the existing methods utilized by water and wastewater utilities to provide notice prior to discontinuance are insufficient or that in-person notice is necessary. (NJAWC)

RESPONSE: The provision that a utility representative shall personally notify an adult occupant of the premises, or leave a sealed note in the event that no adult is on the premises, is currently in place for gas and electric utilities. The Board is not aware of the gas and electric utility companies encountering the problems suggested by the commenter due to compliance with this provision. Therefore, the Board does not anticipate that extending this provision to the water industry will cause the problems that the commenter suggests may happen. The Board believes that extending existing protections for gas and electric customers to water and wastewater will be beneficial to customers. In fact, this practice has prevented shutoffs, which may have occurred by providing the customer an opportunity to make payment or arrangements for payment prior to shutoff in order to retain service or advise that they are applying for assistance.

49. COMMENT: The commenter objects to increasing the dollar amount a customer must be in arrearage before discontinuance for non-payment because it will make it harder for customers to get their accounts back on track. The commenter states that increasing the dollar amount before a provider can communicate to an account holder that is at risk of disconnection will disadvantage customers who may require personalized payment plans or that are eligible for assistance programs. The commenter supports the abandonment of an earlier proposal, which would have applied the WTP to telecommunications carriers. (Verizon)

RESPONSE: The previous threshold of \$100.00 has been in place since 2008 (40 N.J.R. 2481(a)). Taking into account inflation over the years, the Board believes \$100.00 is no longer an appropriate amount for the threshold. The \$200.00 threshold strikes an appropriate balance. It gives the customer a reasonable “grace period” prior to disconnection, but will prevent the buildup of an unmanageable debt to the utility.

50. COMMENT: The commenter states that the amendment at N.J.A.C. 14:3-3A.2(a)1 would increase the minimum arrearage amount necessary for termination from \$100.00 to \$200.00, which the utilities believe would only exacerbate the problem of growing arrearages and further delay getting customers back on track. Since the outset of the pandemic, utilities have demonstrated that they will continue to make every effort possible to assist those customers who are in need and that it is also incumbent upon the utilities to distinguish between those customers who are truly in need from those who are able to pay, and to engage customers in enhanced deferred payment arrangement offerings and assistance programs. With that, the utilities urge the Board, in its consideration of this rulemaking, to keep in mind that a large amount of outstanding utility arrearages will remain even after the late stages of recovery from the pandemic. Therefore, it is imperative that the utilities avoid making changes that could make it difficult for customers to get back on a good and manageable footing, which will ultimately have downstream effects and can make it very difficult for customers and utilities to fully recover from the economic fallout of this pandemic. The commenter also states that the utilities need to be able to provide customers with a realistic view of their account status and to maintain the momentum the Board and utilities have jointly created in working toward that goal, helping customers get back to where they were pre-pandemic. The commenter also notes that this change may require utilities to undertake significant information technology (IT) efforts to change programming in billing and collection systems that may add costs and require the utilities to take ample time to reprogram and test their systems. Incremental costs incurred by the utilities to implement the proposed changes would need to be recovered in future base rate proceedings or through other surcharge mechanisms allowing for full and timely recovery. (NJUA)

RESPONSE: The previous threshold of \$100.00 has been in place since 2008 (40 N.J.R. 2481(a)). Taking into account inflation over the years, the Board believes \$100.00 is no longer an appropriate amount for the threshold. The \$200.00 threshold strikes an appropriate balance - it gives the customer a reasonable “grace period” prior to disconnection, but will prevent the buildup of an unmanageable debt to the utility. Further, while the implementation of this change may require utilities to undertake IT efforts to update billing and collection systems, the change in value should not cause significant disruption to the utility’s business practices. Should the commenter experience significant difficulties in implementing this aspect of the proposed rules, the commenter may file a waiver request for the Board’s consideration.

51. COMMENT: Regarding N.J.A.C. 14:3-3A.2(a)1, the commenter supports increasing the minimum arrearage for discontinuance to \$200.00 (instead of \$100.00). (NRDC)

RESPONSE: The Board thanks the commenter for the comment.

52. COMMENT: Regarding N.J.A.C. 14:3-3A.2(d)4, the commenter supports requiring water and wastewater utilities (not only electric and gas) to do in-person notification before discontinuance and to provide information on how to reconnect service. (NRDC)

RESPONSE: The Board thanks the commenter for the comment.

53. COMMENT: N.J.A.C. 14:3-3A.2(d)5 should be amended to add more clarity—and minimize subjectivity—regarding what constitutes a “reasonable portion of the amount due” that would be sufficient to forestall shutoff “at the time of discontinuance.” (NRDC)

RESPONSE: The flexibility in the rules allows Board staff to assist each customer, depending on their specific financial situation, rather than specify what constitutes a reasonable portion of the amount due, which may limit some customers’ ability to match that amount. As such, the Board declines to make the proposed change.

54. COMMENT: The commenter states that a provision should be added at N.J.A.C. 14:3-3A.2(e) stating that a utility shall not discontinue a customer’s service while the customer has an application pending for utility-related financial assistance. (LSNJ)

RESPONSE: The customer has several options to avoid being disconnected. For example, the customer can reach out to the utility to enter into a deferred payment agreement or discuss other financial assistance options. The Board notes that the current rule, and proposed rules, at N.J.A.C. 14:3-3A.9(e) allow a customer to be reconnected if they have an application pending for utility-related financial assistance. The Board believes that these provisions adequately protect customers. As such, the Board declines to make the proposed change.

55. COMMENT: Regarding the proposed change at N.J.A.C. 14:3-3A.2(e)1, the commenter supports extending cold weather protection to “all utilities.” The commenter says many home heating systems rely on water. (NRDC)

RESPONSE: The Board thanks the commenter for the comment.

56. COMMENT: The commenter respectfully requests that the Board decline to adopt the proposed amendments at N.J.A.C. 14:3-3A.2(e)1 and 3. The commenter states that the change to subject the water and wastewater utilities to the same temperature-related prohibitions against service terminations as currently apply to energy utilities. Hot and cold weather provisions do not apply to water and wastewater; applying such provisions imposes costs on the utilities with limited corresponding benefits. Hot and cold weather provisions are not needed for water because a water shutoff does not cause possible life-threatening conditions, whereas, electric and gas shutoffs can cause life-threatening conditions for a home. The Board already has the appropriate safeguards and processes governing water and wastewater service terminations throughout the year, and the commenter is unaware of any evidence or rationale that would support extension of the temperature-related termination restrictions to water and wastewater utilities. Extending temperature-related terminations to water and wastewater utilities would likely impose substantial costs on the utilities and their customers. (NJAWC)

RESPONSE: Some heating systems require water to operate. Extending these provisions to water will keep these heating systems running on the coldest days of the year. In addition, water is needed to help customers, especially those with health issues, avoid dehydration during the summer months. Therefore, the Board believes that extending

existing temperature protections to water and wastewater customers will benefit customers.

57. COMMENT: Regarding N.J.A.C. 14:3-3A.2(e)1, the commenter states the Board should revise the cold temperature protection to apply whenever the forecasted low temperature is 32 degrees or lower, rather than the forecasted high temperature. This is necessary to protect people from freezing weather, regardless of whether the entire day or only a portion of the day is below freezing. Moreover, we note that the hot weather protection provision at N.J.A.C. 14:3-3A.2(e)3 is triggered whenever a portion of the day will exceed a temperature threshold deemed dangerous to health, not only when an entire day will exceed the temperature threshold. The cold temperature protection should be structured the same way. (NRDC)

RESPONSE: The Winter Termination Program has been in effect for many years, and the Board has found that the different structures for disallowing shut-offs due to heat versus disallowing shut-offs for cold have been working effectively. Therefore, the Board declines to make the commenter's proposed change.

58. COMMENT: Regarding N.J.A.C. 14:3-3A.2(e)2, the commenter supports extending the WTP to water and wastewater utilities. The commenter states this change is legislatively mandated pursuant to P.L. 2021, c. 317, § 7 (codified at N.J.S.A. 48:2-29.55) and will improve access to essential water services. Significantly, many home heating systems rely on water to operate in the winter. (NRDC)

RESPONSE: The Board thanks the commenter for the comment.

59. COMMENT: The commenter supports the change to raise the threshold of a customer's arrearage from \$100.00 to \$200.00 before disconnection for nonpayment and the change that a utility representative must personally notify an adult occupant of the premises concerning water and wastewater in addition to gas and electric, pending disconnection of service and supports the temperature-related amendments that extend to water and wastewater. (NJRC)

RESPONSE: The Board thanks the commenter for the comment.

60. COMMENT: The commenter recommends that the Board raise the temperature, below, and at, when a utility may not discontinue service for nonpayment, from 32 to 40 degrees. (NJRC)

RESPONSE: The threshold of 32 degrees, which is freezing, has been the standard for many years, and the Board has not seen evidence in which this number needs to be adjusted.

61. COMMENT: The commenter states the utilities have serious concerns with the proposed expansion of the WTP and related provisions. The utilities are concerned about the costs associated with expanding the WTP and the restrictions on shutoffs. The incremental costs incurred by the utilities would need to be recovered from customers. The provisions prohibiting shutoffs during high heat or very cold days are out of place for water and wastewater utilities. The programs listed to determine eligibility under the WTP are not applicable to the water or wastewater utilities. At the same time, these sectors do not track participation in the listed WTP programs. It is especially important to note the challenges for water and wastewater utilities that will be subject to the WTP expansion, but lack timely and appropriate recovery mechanisms. The proposed changes at N.J.A.C. 14:3-3A.2(e)3 would prohibit disconnection when the forecasted temperature is 90 degrees or more. This change in temperature could exacerbate growing customer arrears, overall accounts receivable, and bad debt at a time when arrears are already recognized as a significant problem in the State. The utilities recommend keeping the temperature threshold at 95 degrees or more, as it previously applied to electric utilities and continuing to have the threshold apply only to those customers who have a demonstrable difficulty paying their bills (that is, are WTP protected). Additionally, gas, water, and wastewater companies should not be prohibited from performing disconnections in the summer. (NJUA)

62. COMMENT: The proposed amendment to expand the prohibition on disconnection by decreasing the forecasted temperature at, or above, which service cannot be disconnected from 95 degrees to 90 degrees will substantially hinder the ability to collect on outstanding account balances and will result in all customers paying more for electric service. Based on temperature measurements in Newark since January 1, 2010, there have been nearly three times as many days where the temperature has been at or above 90 degrees as there have been days where the temperature was at or above 95 degrees. This indicates that this modification will result in

the utilities having, on average, more than a month less of days on which collections practices can be enforced through disconnection. This will result in increased customer arrearages and, ultimately, uncollectible amounts that will be collected from all customers. (JCP&L)

63. COMMENT: The proposed amendment at N.J.A.C. 14:3-3A is of significant concern to the company. Adjusting the high temperature forecast from 95 to 90 degrees could have the unintended effect of increasing arrearages and negatively impacting bad debt. The proposed amendment will have a significant financial impact, potentially inhibit ACE's ability to change customer payment behaviors, and potentially increase the burden on the broader customer population that pay their bills on a more regular basis. The Board has not adequately articulated why 90 degrees is the appropriate temperature index. A review of weather history from 2017 to 2019 in the Atlantic City area, demonstrates a significant increase in days where temperatures exceeded 90 degrees. (ACE)

RESPONSE TO COMMENTS 61, 62, AND 63: The Board feels that these proposed amendments are vital to the health and safety of all utility customers, and these changes are made in accordance with the mandate by legislation (P.L. 2021, c. 317, § 7 (codified at N.J.S.A. 48:2-29.55)), which added water and wastewater public utilities to the WTP. The Board has found the WTP protections that are currently in place to have benefited customers. The Board believes that further benefits can be achieved by the proposed adjustments to the temperature triggers for these protections as they will protect customers from disconnection on more extremely cold days and extremely hot days. Some of the benefits that will be achieved by these changes are that they will allow customers to heat their homes on more extremely cold days and keep their refrigerators, air conditioners, and gas stoves running on more extremely hot days. The Board believes that the benefit of providing these critical protections outweighs the costs that will be incurred by implementing these changes.

64. COMMENT: The commenter commends the Board for the proposed amendment providing protection from termination of residential service when the temperature is above 90 degree Fahrenheit at any time during the next 48 hours but suggests that if the low temperature is forecast to be 32 degrees Fahrenheit or below at any time during the next 48 hours, customers are protected from termination. (LSNJ)

RESPONSE: The Board notes that the rules are vital to the health and safety of all utility customers. The Winter Termination Program has been in effect for many years, and the Board has found that the current structure for disallowing shut-offs due to cold weather has been working well. Therefore, the Board declines to make the commenter's proposed change.

65. COMMENT: Regarding N.J.A.C. 14:3-3A.2(e)3, the commenter supports reducing the threshold temperature for hot weather protection from 95 degrees to 90 degrees, and extending hot weather protection to gas, water, and wastewater utilities. Heat waves are a significant cause of death in the summer, and access to water for hydration is critically important to avoid adverse health impacts in hot weather. The commenter further supports extending hot weather protection to all customers, regardless of whether the customer is eligible for the WTP. (NRDC)

RESPONSE: The WTP protects customers who may have difficulty paying their bills due to financial concerns. If the Board were to extend these protections to all customers, it would allow customers who have the financial ability to pay their bills to choose not to pay their bills and still avoid being disconnected. This would be unfair to other customers who would have to absorb the resulting bad debt expense.

66. COMMENT: The commenter believes that the language at N.J.A.C. 14:3-3A.2(i) and (j) is imprecise and confusing regarding medical certification and recommends that the Board revise the rules to reflect several core principles discussed in a recent report by the National Consumer Law Center, including broad scope of protection eligibility, certification of serious illnesses by a wide range of professionals, prompt initiation and adequate duration of protection, adequate notice by utilities of the serious illness protection rules, and affirmative outreach by utilities to identify eligible customers and avoid terminating their service. (LSNJ)

RESPONSE: The Board revised this section based on N.J.S.A. 48:2-29.48 et seq. (Linda's Law), and believes it protects the Board's most vulnerable customers. The broad scope of the language allows the flexibility to ensure that all customers that need this protection have access to it. The term "licensed medical professional" already allows a wide range of professionals to provide documentation that a customer qualifies

for this protection. Further, the Board can extend the 90-day protection for good cause, and therefore, the rule already provides an adequate duration of protection. N.J.S.A. 48:2-29.49.a provides that an electric public utility must request from every residential customer, on a semi-annual basis, information as to whether the customer uses life-sustaining equipment powered by electricity at the customer's address. Additionally, N.J.S.A. 48:2-29.51 requires each electric public utility to develop a customer outreach plan, subject to Board approval, that shall inform customers of the process for qualifying as a medical customer pursuant to Linda's Law. As such, the Board finds that there are already adequate requirements in place to ensure that the utilities contact customers pursuant to Linda's Law.

67. COMMENT: Regarding N.J.A.C. 14:3-3A.2(j), the commenter supports allowing Board staff, without action by the Board, to grant an extension of the 90-day prohibition on discontinuance in cases of medical emergencies. (NRDC)

RESPONSE: The Board thanks the commenter for the comment.

68. COMMENT: The commenter states that N.J.A.C. 14:3-3A.2(j) should be revised to make clear that customers experiencing an ongoing medical emergency and otherwise meeting the criteria at N.J.A.C. 14:3-3A.2(i) must be granted an extension of the prohibition against discontinuance of residential service for nonpayment. Specifically, the commenter suggests that the provision be revised to read as follows: "Board staff shall extend the 90-day period at (i) above, if a customer submits an extension request in the same or similar manner as the initial request for medical emergency protection. The request shall be accompanied by an updated document from a licensed medical professional that meets the requirements of (i)2 above. Pending Board staff's review of a request for extension, utility service shall not be disconnected." (NRDC)

RESPONSE: The Board revised this section based on Linda's Law and believes it protects the Board's most vulnerable customers. The rule, as written, states that the "Board may extend" the 90-day period for good cause. The commenter proposes to change this to "Board staff shall extend" the 90-day period. The rule language is consistent with N.J.S.A. 48:2-29.49.b, and, therefore, the Board declines to make the proposed change.

69. COMMENT: The commenter recommends that the Board: 1. expand the circumstances that qualify under the "medical emergency" provisions pursuant to N.J.A.C. 14:3-3A.2(i); 2. add language stating that "reasonable proof of inability to pay" is satisfied automatically if a customer is WTP-eligible and the customer self-certifies inability to pay; 3. provide more flexibility in the method and timing of a medical professional's certification of medical emergency; and 4. add a requirement that, at the end of the initial period of protection from discontinuation, the utility cannot discontinue service unless it sends a new notice of discontinuance and complies with all of the requirements at N.J.A.C. 14:3-3A.2, 3A.3, and 3A.4. This notice of discontinuance should prominently explain how the customer can obtain an extension of the initial period, pursuant to N.J.A.C. 14:3-3A.2(j), and subsection (j) should be revised so that customers experiencing an ongoing medical emergency and otherwise meeting the criteria at N.J.A.C. 14:3-3A.2(i) must be granted an extension of the prohibition. (NRDC)

RESPONSE: The Board revised this section based on Linda's Law and believes it protects the Board's most vulnerable customers. The proposed rules apply to any medical emergency within the residential premises, which would be aggravated by a discontinuance of service. As such, the term "medical emergency" is already sufficiently broad. Additionally, the term "reasonable proof of inability to pay" is sufficiently broad as it includes any reasonable proof. It is not necessary to scope it further by adding specific conditions, such as WTP-eligible or that the customer self-certifies an inability to pay. The method and timing of a medical professional's certification of medical emergency in the proposed rule is consistent with Linda's Law, including N.J.S.A. 48:2-29.49(b). Therefore, the rules regarding the medical professional's certification are appropriate. It is not necessary to add a requirement that, at the end of the initial period of protection from discontinuation, the utility cannot discontinue service unless it sends a new notice of discontinuance as the Board's rules regarding notices for discontinuance already apply without being restated in this section. Further, when a customer is approved for

the medical emergency prohibition on discontinuance, they are notified of this protection and of their right to request a 90-day extension when the prohibition ends. Based on the foregoing, the Board declines to make the commenter's proposed changes. For the reasons noted in the Response to Comment 68, the Board declines to make the 90-day extension mandatory at N.J.A.C. 14:3-3A.2(j).

70. COMMENT: The commenter supports the proposed amendment at N.J.A.C. 14:3-3A.2(e)3 to reduce the threshold temperature for hot weather protection from 95 degrees to 90 degrees. The commenter strongly urges the Board to further revise this hot weather protection to be more fully inclusive of conditions that present serious risk of adverse health impacts and of people who are at risk. The commenter suggests three changes:

- Use a threshold based on "heat index," rather than temperature;
- Establish an independent trigger for hot weather protections when a "heat advisory" or "excessive heat warning" has been issued by the National Weather Service, which can also occur with temperatures under 90 degrees; and
- Apply the hot weather protections to all customers, not only those eligible for the WTP. (NRDC)

RESPONSE: While there are many factors the Board could use as triggers for the WTP, the Board believes that basing the WTP on actual temperature is the most appropriate method. Temperature information and forecasts are more readily available than heat indexes and other measurement tools. Regardless of the measurement tool used, it is most important to determine the appropriate weather conditions to trigger the program's restrictions on disconnects. The Board believes the temperatures used in the proposed rules accomplish an appropriate balance between protecting customers from disconnection during the most extreme temperatures and allowing disconnects so that customers pay their bills. Regarding the commenter's request to extend the hot weather protections to all customers, the WTP protects customers who may have difficulty paying their bills due to financial concerns. If the Board were to extend these protections to all customers, it would allow customers who have the financial ability to pay their bills to choose not to pay their bills and still avoid being disconnected. This would be unfair to other customers who would have to absorb the resulting bad debt expense. Therefore, the Board declines to make the commenter's proposed changes.

71. COMMENT: The commenter recommends that the Board add a provision stating that a utility cannot discontinue service for nonpayment while a customer's application for utility assistance is pending, for several reasons. Under the Board's Customer Bill of Rights, a residential electric, gas, water, or wastewater customer who has been disconnected, shall have their service reconnected, upon request, if they have applied to the Universal Service Fund, Low Income Home Energy Assistance, Payment Assistance for Gas and Electric, or Low Income Household Water Assistance for available benefits. Therefore, a necessary corollary of that requirement is that all electric, gas, water, and sewer residential customers with pending applications for assistance, whose service has not yet been disconnected, should not be disconnected for nonpayment while the application is pending. WTP already expressly establishes, by statute, a requirement that water utilities must maintain service while a customer has an application for assistance pending, at least for customers that are eligible for the WTP. To maintain parity between energy and water customers, BPU should exercise its discretion to extend this principle to energy customers. (NRDC)

RESPONSE: The customer has several options to avoid being disconnected. For example, the customer can reach out to the utility to enter into a deferred payment agreement or discuss other financial assistance options. The Board notes that the current rule, and proposed rules, at N.J.A.C. 14:3-3A.9(e) allow a customer to be reconnected if they have an application pending for utility-related financial assistance. The Board believes that these provisions adequately protect customers. In addition, the provisions in the Customer Bill of Rights that the commenter references were temporary and are no longer in effect. Finally, regarding the commenter's reference to the statute, the commenter is recommending that the regulations go beyond the protection provided by the statute. The Board believes that the commenter's changes would unduly expand the prohibition against disconnects and not strike an appropriate balance

between protecting customers from disconnection during the most extreme temperatures and allowing disconnects so that customers pay their bills. As such, the Board declines to make the proposed changes.

72. COMMENT: The commenter states the Board should add a provision stating that a utility cannot discontinue for nonpayment when a customer has submitted a request to Board staff for assistance in negotiating a deferred payment agreement, until Board staff have resolved that request. (NRDC)

RESPONSE: N.J.A.C. 14:3-7.6(c) provides that once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease until Board staff notify the utility and the customer that the dispute has been resolved. If the customer disputes the deferred payment plan offered by the utility, they are in essence disputing the bill. Therefore, pursuant to N.J.A.C. 14:3-7.6(c), the utility cannot disconnect the customer until Board staff have resolved the complaint. As such, it is not necessary to modify the rule language as suggested by the commenter.

73. COMMENT: The commenter states the Board should add a provision stating that a utility cannot discontinue for nonpayment when the most recent bill was estimated and the overdue amount includes charges based on that estimated bill. (NRDC)

RESPONSE: The fact that a bill is estimated is not, in and of itself, a good reason to prohibit a utility from disconnecting a customer. For instance, sometimes the customer may block access to the meter, which may necessitate estimated billing. If the customer has concerns about the accuracy of an estimated bill, they can file a dispute with the Board. Thus, the Board declines to make the suggested change.

74. COMMENT: The commenter states the Board should add a provision prohibiting discontinuance at residential premises where households include an infant (under 12 months), if the customer is unable to pay due to financial hardship, and treat WTP eligibility as sufficient evidence of financial hardship. (NRDC)

RESPONSE: The Board does not believe that households with infants should not have to pay their utility bills based solely upon the fact that an infant resides at the premises. N.J.A.C. 14:3-7.7 provides deferred payment agreements for any customer who is having financial difficulty paying their utility bills, and there are several assistance programs available to customers, such as NJ Shares, LIHEAP, Universal Service Fund, Lifeline Utility Assistance Program, and Payment Assistance for Gas and Electric. Therefore, the Board believes that the current and proposed rules protect customers.

75. COMMENT: The commenter states that N.J.A.C. 14:3-3A.2(l) should be revised to provide more meaningful medical emergency protections to tenants who are not the utility account-holder. Specifically, this paragraph applies only to "a master metered premise in which the landlord is the actual customer of record." It should be revised to apply regardless of whether or not the premise is master metered. Any renter whose landlord is the customer of record should be able to claim medical emergency protections from shutoff.

This paragraph requires restoration of service after it has been discontinued if the tenant notifies the utility of a medical emergency, but does not allow a tenant to prevent discontinuance in the first instance because of a medical emergency. The rule should be revised to allow tenants to avoid discontinuance, not only to get service temporarily reconnected.

This paragraph provides only seven days of protection to tenants experiencing medical emergency, "to allow the customer of record to resolve the non-payment issue and to provide the tenant with time to make alternative arrangements." But seven days is not sufficient time for a customer with a medical emergency to make safe, alternative housing arrangements when the customer is faced with "constructive eviction" due to a landlord's failure to pay utility bills. The rule should be amended to provide at least a 30-day prohibition on discontinuance where a tenant has a medical emergency. (NRDC)

RESPONSE: If the tenant has a lease that provides that the utility provide utility service and the landlord does not provide such service, this is a landlord-tenant dispute, not a matter between the utility and the tenant, as the tenant is not a customer of the utility. While such a matter is primarily a landlord-tenant issue, the rules provide some protections to these tenants. The seven-day period in the rule is not designed as a long-term solution but a time period where the tenant can make alternate

arrangements, seek legal recourse, or reach out to the appropriate consumer protection agency. The Board revised this section based on Linda's Law and believes it provides adequate protections. Therefore, the Board declines to make the proposed change.

N.J.A.C. 14:3-3A.3 Notice of Discontinuance for Nonpayment

76. COMMENT: The commenter recommends that the Board include in its rules, either at N.J.A.C. 14:3-3A.3(f) or another relevant section of Chapter 3, a provision that is in parity with the new Customer Bill of Rights at #5, which requires utilities to reconnect a customer while payment assistance applications are pending. (NJRC)

RESPONSE: The proposed rules at N.J.A.C. 14:3-3A.9 include provisions where a residential electric, gas, water, or wastewater customer who has been disconnected, shall have their service reconnected, upon request, if certain conditions are met, including that they can demonstrate that they have applied to one of the following eligible assistance programs: Universal Service Fund, Low Income Home Energy Assistance, Payment Assistance for Gas and Electric, or the Low-Income Household Water Assistance program(s). The Customer Bill of Rights is an evolving document that is updated as needed to reflect the current law and regulations.

77. COMMENT: The commenter opposes extending the period before notice of discontinuance from 15 to 20 days. The commenter notes that delaying notification of a potential disconnection will reduce the time a customer has to work with their provider to avoid a service disruption. In addition, the commenter states that the change will result in additional costs for companies without any corresponding benefit. (Verizon)

RESPONSE: Extending this period is beneficial for customers, especially in the current economic climate, providing customers additional time to obtain proper funds or to inquire into financial assistance. The Board believes that this benefit outweighs the cost of implementing this change.

78. COMMENT: The commenter states that N.J.A.C. 14:3-3A.3(e) should be modified to provide that discontinuance notices shall be provided in both English and Spanish. In addition, a public utility shall: 1. if any utility service has been offered to the customer in a language other than English or Spanish; 2. if a substantial number of residents in the customer's municipality speak a language other than English or Spanish; or 3. if the customer requests notice in another language in which the utility does business, send a notice in that language. The commenter suggests discontinuance notices always be sent as a separate notice. They further note that any reasonable increased costs incurred should be recoverable through the ratemaking process, to the extent such costs are not offset by improved collections. In addition, the commenter states that the time periods for payment should be expanded to 30 days from the proposed 20 days. (LSNJ)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues, such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues regarding discontinuance notices. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's suggestion, the appropriate language(s) to use in the notices, and what constitutes a substantial portion of the population. The Board welcomes the commenters' participation in this and other future rulemakings. Regarding the commenter's suggestion to expand the time periods for payment to 30 days, the Board believes the 20 days strikes the proper balance between ensuring that the customer has sufficient time to pay the bill and that the utility is paid in a timely fashion; therefore, the Board declines to make the suggested change.

79. COMMENT: The commenter objects to the extension, from 15 to 20 days, after the postmark for customers to pay outstanding bills. The commenter notifies customers of outstanding balances on monthly invoices and then sends a separate notice, which provides customers with additional time to pay and provides proof(s) of their "pending disconnection" status for use when applying for agency assistance. Implementation of this change will require sufficient time to reprogram the commenter's billing system after the new regulations are adopted; however, the commenter could implement the change in July 2022. (ACE)

RESPONSE: Extending this period is beneficial for customers, especially in the current economic climate, providing customers additional time to obtain proper funds or to inquire into financial assistance. The Board believes that this benefit outweighs the cost of implementing this change. The Board notes that the commenter states that this change could be implemented in July 2022. However, should the commenter experience significant difficulties in implementing this aspect of the proposed rules, the commenter may file a waiver request for the Board's consideration. The Board believes that the current and proposed rules adequately protect customers.

80. COMMENT: The commenter states the Board's proposed change to billing days from 15 to 20 days could result in additional administrative costs on the part of the utilities. This change may require a significant IT effort for companies to change programming in their billing and collection systems. Therefore, if this change is adopted, any implementation timeline should provide utilities ample time to reprogram and test systems. Incremental costs incurred by the utilities to implement the proposed changes would need to be recovered in future base rate proceedings or through other surcharge mechanisms allowing for full and timely recovery.

The commenter further states the utilities respectfully recommend that language be changed in the proposed amendments at N.J.A.C. 14:3-3A.3(b) and (b)3, to clarify that the generation of a new bill for current charges, that also identifies the previously billed past due amounts, does not restart the 20-day clock for payment for the past due amount. (NJUA)

RESPONSE: Extending this period is beneficial for customers, especially in the current economic climate, providing customers additional time to obtain proper funds or to inquire into financial assistance. The Board believes that this benefit outweighs the cost of implementing this change. Further, while the commenter notes that implementation of this change may require utilities to undertake significant IT efforts to reprogram and test systems, the commenter does not state that implementation will have these effects. Should the commenter experience significant difficulties in implementing this aspect of the proposed rules, the commenter may file a waiver request for the Board's consideration. The Board believes that it is already clear that issuing a new bill to a customer does not restart the 20-day clock for payment of the original bill.

81. COMMENT: Regarding N.J.A.C. 14:3-3A.3(b), the commenter supports increasing the initial period to pay a bill from 15 to 20 days before a notice of discontinuance may be sent. (NRDC)

RESPONSE: The Board thanks the commenter for its comment.

82. COMMENT: The commenter states one part of P.L. 2022, c. 4, enacted in January 2022, which largely concerns temporary consumer protections related to the COVID-19 pandemic, requires that a WTP fact sheet is sent by water and wastewater utilities to include information about available assistance programs in any communications concerning overdue bills. The Board should incorporate this into the regulations. (NRDC)

RESPONSE: The Board interprets "any communication to a residential customer in connection with an overdue utility bill" at P.L. 2022, c. 4 to mean notices of discontinuance. The Board believes that the current and proposed rules comply with the WTP-related provisions at P.L. 2022, c. 4. WTP fact sheets are already included with all notices of discontinuance. Additionally, the Board requires utilities to provide information regarding utility assistance programs administered by a State agency in any communication the utilities have with a customer in connection with an overdue utility bill, as mandated by *In re the New Jersey Board of Public Utilities' Utility Customer Bill of Rights*, BPU Docket No. AX21091111, dated April 6, 2022.

83. COMMENT: Regarding N.J.A.C. 14:3-3A.3, the commenter states, generally, several paragraphs refer to counting days from the postmark of a mailing. If any regulated utilities send their bills or notices from out-of-State, additional time should be added. (NRDC)

RESPONSE: The rules allow more time for a customer to pay their bill. The additional time will help all customers, including those who may receive their bill from out-of-State. The Board is not aware of customers having difficulties paying their bills on time due to receiving a bill that was mailed from out-of-State later than if it had been mailed from New Jersey. As such, the Board declines to make the proposed change.

84. COMMENT: Pursuant to N.J.A.C. 14:3-3A.3(b) and (c), the commenter states the total length of time from billing to discontinuance should be longer than it is under the current rule or the draft amendments. This could be done by further extending either the time to pay before a notice of discontinuance (pursuant to subsection (b)), or the length of the notice period (pursuant to subsection (c)), or both. The draft revisions would allow a total of 30 days to pay before losing service (20 days from billing to notice, and a 10-day notice period). The commenter recommends that the total time should be at least 45 days, for example, by providing 30 days to pay before a shutoff notice, followed by a 15-day notice. (NRDC)

RESPONSE: The amendments allow customers additional time to pay their bills. The Board believes that the new time frames balance the desire to allow customers sufficient time to pay their bills against the costs associated with late payments and non-payments of bills. Extending these time frames further would be excessive and not achieve the desired balance. As such, the Board declines to make the proposed change.

85. COMMENT: Regarding N.J.A.C. 14:3-3A.3(b)2, the commenter states for anyone who receives bills electronically, the utility should be required to send all disconnection-related notices electronically in addition to, but not in place of, sending by regular mail. (NRDC)

RESPONSE: These notices are sent by the utilities in the same manner that the utility sends the bill. This method of delivery is selected by the customer and reflects what the customer has determined is best for them. In addition, sending the notice by regular mail, in addition to electronically, where the customer has specifically requested electronic delivery would result in the added cost of the paper, the postage, and the processing that would need to be paid for by all customers. Therefore, the Board declines to make the commenter's recommended change.

86. COMMENT: The commenter states notices of discontinuance should always be a separate document from the monthly bill sent to the customer. It commends the Board for having made this the default rule, as embodied at N.J.A.C. 14:3-3A.3(b)2. The commenter believes, however, that there should be no exemptions for individual utilities. Regulations protecting customers from improper and unnecessary terminations of utility services should be applied on a uniform Statewide basis. Additionally, any reasonable increased costs, to the extent they are not offset by improved collections, should be recoverable through the ratemaking process. This is a very important—but also simple and inexpensive—protection. It could be accomplished easily by striking the second sentence at N.J.A.C. 14:3-3A.3(b)2. (LSNJ)

RESPONSE: The second sentence at N.J.A.C. 14:3-3A.3(b)2, as well as at N.J.A.C. 14:1-1.2, merely give the utility the opportunity to request a temporary exemption. The Board believes that it is reasonable to include the language, which allows the Board to determine whether compliance with this rule would result in financial harm and/or would negatively impact the utility's daily operations and grant or deny the exemption based on this determination. Therefore, the Board declines to make the commenter's proposed change.

87. COMMENT: Regarding N.J.A.C. 14:3-3A.3(d), a requirement should be established, so that a notice of discontinuance expires after a set period of time. In addition, the commenter requests clarification of when multiple notices of discontinuance are required in regard to a bill pursuant to this subsection. After receiving such a notice, a customer should not be indefinitely subject to discontinuance at any time, without further warning. If the account remains eligible for discontinuance after that time, a new notice should be required before service can be discontinued. If a customer's check is dishonored, the utility should be required to inform the customer and offer an opportunity to make payment by other means before disconnecting service. (NRDC)

RESPONSE: The Board notes that the language requiring that a new notice be served by the utility each time it intends to discontinue service for nonpayment of an outstanding past due bill is clear. This encompasses any situation where the utility intends to discontinue service. Listing various reasons that the utility may intend to discontinue service that would trigger this provision would not add clarity to the rules. A customer is not indefinitely subject to discontinuance at any time. Either the customer will be disconnected for non-payment, or the customer will no longer be subject to discontinuance. If the customer is temporarily protected from discontinuance because of protections from the Winter

Termination Program, for instance, the customer will be sent a new notice of discontinuance before they become subject to termination at the end of the protection period. Regarding situations when a customer's check is dishonored, the customer will be notified by their bank, at which point they should contact the utility to make an alternate payment arrangement.

88. COMMENT: N.J.A.C. 14:3-3A.3(e) and (f) require notifications of discontinuance (and the accompanying WTP fact sheet) to be translated into Spanish. The rules should be revised to require notices of discontinuance (and other critical notices) be translated into other languages where relevant to the population of the service area and/or to include a brief statement in other languages identifying the evolving document as a shutoff notice and urging the customer to seek help translating it. Comparable changes would also be required at N.J.A.C. 14:3-7.1(b), (c), and (g), which also address translation of notices of discontinuance. (NRDC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues, such as the form of notices of discontinuance, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's suggestion and what factors should be used to determine the appropriate alternate language(s) to use; however, no such change is needed at this point in time.

89. COMMENT: N.J.A.C. 14:3-3A.3(f)—This subsection should clarify that the WTP fact sheet must be included with a notice of discontinuance not only during the heating season, but also for some period of time (that is, two months) prior to the heating season. This information is very important for customers to have, even before the heating season begins. Notices of discontinuance sent before the heating season may result in discontinuance during the heating season; further, when disconnection occurs before the heating season, the WTP provides eligible customers with a right to reconnection when the heating season begins. (NRDC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to the distribution of WTP fact sheets. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's suggestion and how often this WTP fact sheet information should be provided to customers to ensure that it is sufficient and not excessive. The Board welcomes the commenters' participation in this and other future rulemakings.

90. COMMENT: N.J.A.C. 14:3-3A.3(g) appears to have incorrect cross-references to other sections at N.J.A.C. 14:3. The actual intent of this subsection is not apparent. It refers to alternative notice methods pursuant to N.J.A.C. 14:3-3A.1(b), but that provision does not relate to notices of discontinuance sent by a utility to a customer. Instead, it relates to notice by the customer to the utility of a customer's request to discontinue service. It refers to two grounds for discontinuance of service, in addition to nonpayment, that would allow the utility to use some alternate method of notice, even when nonpayment is also a reason for the discontinuance. However, both of these other referenced grounds for discontinuance actually are for nonpayment: N.J.A.C. 14:3-3A.1(a)3 (nonpayment of bills for service); N.J.A.C. 14:3-3A.1(a)4 (nonpayment of a deposit following restoration of service)). Therefore, the rule should be amended to ensure that all the standard requirements for discontinuance for nonpayment will apply. (NRDC)

RESPONSE: The Board thanks the commenter for its comment. The Board recognizes the cross-reference error and will make the correction to N.J.A.C. 14:3-3A.3(g). The intent of this subsection is to provide different notice requirements for discontinuance of service for nonpayment of bills versus discontinuance of service for other reasons. This is to ensure that the utilities have the ability to discontinue service quicker when prompt action is needed. An example is for making repairs or mitigating hazardous conditions that may place customers and utility employees at risk of physical harm or death.

N.J.A.C. 14:3-3A.4 Additional Notice Requirements for Discontinuance of Residential and Special Customers

91. COMMENT: The commenter urges the extension of all customer protections previously limited to electric and gas customers, such as those at N.J.A.C. 14:3-3A.4(i) and (j), to water customers. (LSNJ)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to extending such protections to water customers, if such is determined to be necessary. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's proposal and what the most appropriate language would be to include on notices of discontinuance to water customers. The Board welcomes the commenters' participation in this and other future rulemakings.

92. COMMENT: The commenter has formatting and informational suggestions regarding bills, discontinuance notices, and the Statement of Customer's Rights. (LSNJ)

RESPONSE: The Board believes that current language and formatting are adequate.

93. COMMENT: The commenter supports extending the requirement at N.J.A.C. 14:3-3A.4 to solicit information about the presence of any life-saving equipment on a residential customer's premises to water and wastewater utilities, in addition to gas and electric utilities, that are covered under the existing rule. (NRDC)

RESPONSE: The Board thanks the commenter for its comment.

94. COMMENT: N.J.A.C. 14:3-3A.4(e) requires utilities to develop "customer outreach plans" to educate people about the availability of medical emergency protections from discontinuance. It should be revised to require utilities to submit these plans, including copies of any materials that would be provided to customers, to Board staff for review and approval. This would mirror the requirement at N.J.A.C. 14:3-3A.3(f) that utilities must submit for review and approval a WTP fact sheet to be sent with notices of discontinuance during the heating season. (NRDC)

RESPONSE: The language at N.J.A.C. 14:3-3A.4 is based on Linda's Law, which requires electric public utilities to submit their customer outreach plans to the Board for approval, pursuant to N.J.S.A. 48:2-29.51. As such, the Board notes that, pursuant to N.J.A.C. 14:3-3A.4, the utilities' customer outreach plans likewise require Board approval.

95. COMMENT: The rules should be amended to ensure utilities notify customers of their rights and available assistance programs, including in a notice of discontinuance, other communications at the time of and following discontinuance, and whenever a customer calls the utility with a billing or collections issue. Specifically, in regard to notices of discontinuance, the commenter recommends the following: Notices that utilities are required to send pursuant to N.J.A.C. 14:3-3A.4(h) and 3A.3(f) should be required to inform customers of ways the customer can avoid discontinuance, apart from payment of their balance in full, such as "medical emergency protections," or pendency of an application for assistance. P.L. 2021, c. 317, § 7 requires all utilities to notify customers of available assistance programs in connection with any communication related to an overdue bill. The commenter recommends that this requirement be reflected in the requirements concerning notices of discontinuance for nonpayment, among other places in the rules. The commenter requests that the notice should inform people how to obtain more detailed information about these assistance programs, including relevant websites and phone numbers for the programs. The rule should also require utilities to submit annually for review and approval by Board staff a draft fact sheet informing customers of their rights and available assistance programs, for inclusion with notices of discontinuance. If the utility discontinuance would be performed remotely, this should be clearly stated on the bill. (NRDC)

RESPONSE: The Board notes that the existing and proposed rules, as well as the Customer Bill of Rights, address the commenter's concerns. The existing rules, the proposed rules, and the Customer Bill of Rights, already provide protections for customers and relevant information to customers. The Board believes that it is important to provide customers with sufficient information, so that they are aware of their customer rights and various protection programs that are available to them. However, it is

important not to provide them with such a volume of information that it may make it easy for them to overlook the most relevant information. The Board believes that the current rules, the proposed rules, and the Customer Bill of Rights strike the right balance and provide the appropriate amount of information to customers.

96. COMMENT: N.J.A.C. 14:3-3A.4(i) and (j) identify additional information that must be included on notices of discontinuance to residential electric and gas customers. These subsections should be revised to apply also to water utilities; the same rights described here are equally available to water customers and they should receive the same notification of those rights. Subsection (j) refers to “statements required to be included on notices of discontinuance ... pursuant to (g) and (h) above.” It appears that the intent was to reference subsections “(h) and (i) above.” This should be corrected. (NRDC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to the form of discontinuance notices, if such a change is necessary in the future. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter’s proposal and what the most appropriate language would be to include on notices of discontinuance to water customers. The Board welcomes the commenters’ participation in this and other future rulemakings. Additionally, the commenter is correct that the reference at subsection (j) to “(g) and (h) above” should be changed to “(h) and (i) above.” The Board has made the correction at N.J.A.C. 14:3-3A.4(j).

97. COMMENT: The commenter supports the proposed changes that all electric, gas, water, and wastewater utilities, not just electric and gas, solicit information from their residential customers to determine the presence of any life-sustaining equipment on the customer’s premises. The commenter also supports the amendments to update the telephone numbers for the public to contact the Board. (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

98. COMMENT: The commenter states the requirement of good faith efforts at telephone contact prior to termination at N.J.A.C. 14:3-3A.4(c) should apply to all customers, not only those over 65 year of age. (LSNJ)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to termination notices, if such changes are deemed necessary or beneficial in the future. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter’s suggestion to expand this protection to all customers and not just those over 65 years of age. The Board welcomes the commenters’ participation in this and other future rulemakings.

99. COMMENT: The commenter states crucial information for customers facing potential termination should be required to be printed on the front of the page. N.J.A.C. 14:3-3A.4(j) should be revised accordingly. (LSNJ)

RESPONSE: Existing and proposed rules are adequate and require that crucial information be provided in a conspicuous location on the notice of discontinuance. The entire notice of discontinuance provides crucial information for the customer. As required pursuant to N.J.A.C. 14:3-3A.4(j), the front of the notice must contain a statement in boldface type, indicating that important information regarding the customer’s rights, such as the process for disputing charges, is found on the back of the notice. The existing rule sets forth when boldface type must be used, the size of the font, and the location of the information to be provided. As there is a significant amount of crucial information that must be provided to the customer through the notice of discontinuance, it is important that both sides of the notice be used. Therefore, the Board declines to make the proposed change.

N.J.A.C. 14:3-3A.5 WTP for Residential Electric and Gas Service

100. COMMENT: The commenter believes that the proposed extension of customer protections to water service, as well as electric and

gas service—including, but not limited to, the WTP pursuant to N.J.A.C. 14:3-3A.5—represents a major step forward for water customers. (LSNJ)

RESPONSE: The Board thanks the commenter for its comment.

101. COMMENT: The commenter suggests that the Board should add recipients of Low Income Household Water Assistance Program (LIHWAP) and other water and wastewater assistance to the list of those categorically eligible for WTP, and that eligible customers should not have to demonstrate eligibility for WTP protection, but that the Board should simply prohibit utility terminations during the winter months or have the utility be required to take reasonable steps to determine whether a customer is protected under WTP before disconnecting services. If, in response to such an inquiry, or on the customer’s own initiative, the customer self-certifies eligibility for WTP protection, termination during the moratorium period should only be permitted on order of the Board after a hearing. The commenter disagrees that a WTP-eligible customer be required to make a down payment of up to 25 percent of their arrears, and wants the Board to clarify that tenants who receive service through an account in another name (such as their landlord or a tenants’ association) are entitled to WTP protection and cannot have service disconnected during WTP, and suggests that those eligible for WTP protection who have been discontinued for non-payment and not reconnected as of November 15 shall have service restored within 12 hours. (LSNJ)

RESPONSE: The Board appreciates the suggestions. LIHWAP is currently a temporary program and any other water assistance programs are run specifically by the water utility companies. As water and wastewater utilities have been added to the WTP, the requirements of that program, as proposed, will govern treatment of these customers. WTP protection can only be applied to a residential customer’s account. Landlord-owned accounts do not qualify for WTP, pursuant to the guidelines of the program. In addition, N.J.A.C. 14:3-3A.9(a) states a customer’s service shall be restored within 12 hours. This is regardless of whether it is the heating season or not.

102. COMMENT: The commenter’s comments regarding the WTP, as noted above, regarding N.J.A.C. 14:3-3A.2(e), also apply to this section. The WTP was first established so that customers had access to heat and electricity during extreme winter weather. Expansion of the WTP to water and wastewater utilities places a significant administrative and financial burden on these utilities whose service is not tied to these weather factors. Now that it has been legislatively extended, it is necessary that an appropriate recovery mechanism be put in place for water and wastewater utilities. (NJUA)

RESPONSE: The Board believes the proposed amendments are vital to the health and safety of all utility customers. The Board believes that the commenter has not made a valid case that a specific recovery mechanism is needed for these costs. Each utility already has the ability to file a base rate case, when its costs increase to the point where the utility is not able to earn a fair rate of return, wherein the utility’s complete financial condition can be evaluated.

103. COMMENT: The commenter supports the proposed changes that add water and wastewater to the WTP for residential customers. The commenter suggests modifying N.J.A.C. 14:3-3A.5(b) to state that the “outstanding balance” may include only energy, distribution, and transmission charges, and not late fees, reconnection fees, returned check charges, appliance service charges, repairs, or any other fees, charges, or costs. The modification of the language would be consistent with the standards for discontinuance for nonpayment at N.J.A.C. 14:3-3A.2(b). This would make the cost of restoring service more affordable for some customers who lost service due to nonpayment, while prioritizing the payment of actual utility service. The commenter also suggests defining the term “payment plan” used in the rule and requiring that any payment plan is affordable to the customer. (NJRC)

RESPONSE: The Board believes that the rules adequately protect all customers eligible for the WTP. N.J.A.C. 14:3-3A.2(b) provides protection for inclusion of appliance service charges, repair charges, and others. The Board notes that utilities are not permitted to charge residential customers late fees. The Board does not believe that the term payment plan needs to be defined further. The change in this section from “budget billing” plan to “payment plan” allows greater flexibility because a “budget billing” plan is a defined plan and a “payment plan” can be tailored to meet the specific needs of the customer.

104. COMMENT: The commenter supports the addition of water and wastewater utilities to the WTP, on the same terms as electric and gas utilities, as reflected in multiple places at N.J.A.C. 14:3-3A.5, where the Board proposes to add “water and wastewater.” As noted above, this change is required pursuant to P.L. 2021, c. 317, § 7 (codified at N.J.S.A. 48:2-29.55). (NRDC)

RESPONSE: The Board thanks the commenter for its comment.

105. COMMENT: The commenter states the proposed rule must be modified to comply with all of the requirements of WTP. That law required the Board to include water and wastewater utilities in the WTP, as the proposed rule amendments do. However, the law also required the Board to amend its regulations to establish within the WTP the following three things:

1. Categorical eligibility for any customer receiving assistance under the LIHWAP or any other State, local, or utility program that provides assistance specifically to help customers pay sewer or water bills;

2. A process, in a form and manner to be determined by the Board, which allows a residential customer to self-certify an inability to pay their public utility bill due to specific circumstances beyond the customer’s control, provided that the circumstances shall include, but not be limited to, unemployment, illness, medically related expenses, recent death of an immediate family member, and any other circumstances that might cause financial hardship; and

3. A requirement that a water public utility shall maintain or reconnect service if the residential customer can prove they have submitted an application for assistance under a qualified assistance program unless there is a utility emergency. Upon request, the residential customer shall provide the public utility with an update on the status of the application.

This issue should be resolved, expeditiously, through stakeholder engagement with further public notice and comment on a proposed amendment. (NRDC)

RESPONSE: The Board notes the commenter’s concerns; however, subsection (c) is addressed in the evolving Customer Bill of Rights. The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to categorical eligibility for financial assistance programs and the process for self-certifying the customer’s inability to pay their bills. The Board welcomes the commenters’ participation in this and other future rulemakings.

106. COMMENT: The commenter recommends, in the list of criteria that make a customer eligible for the Winter Termination Program (N.J.A.C. 14:3-3A.5(a)), to add several specified categories that reflect similar levels of financial need as the categories already on the list and/or otherwise are indicative of medical vulnerability:

- Recipients of Medicaid;
- Recipients of benefits under the Federal Women Infants and Children (WIC) program;
- Anyone who is income-eligible for any of the listed benefits programs, even if not currently enrolled in one of those programs;
- Seniors (over age 65);
- Persons receiving unemployment benefits; and
- Persons with disabilities. (NRDC)

RESPONSE: The Board believes that the current and proposed rules adequately protect all eligible customers. The Board believes that the current WTP criteria is robust. N.J.A.C. 14:3-3A.5(a)8 states that persons unable to pay their bills because of circumstances beyond their control are protected, allowing customers in various financial situations to be covered by the WTP.

107. COMMENT: The commenter recommends eliminating the requirement that WTP-eligible customers make a down-payment of up to 25 percent to get service restored. The commenter notes that the down-payment requirement is inconsistent with P.L. 2021, c. 317, § 7(c), which directs the Board to require that water customers participating in the WTP must have their service restored if they apply for bill payment assistance while their application is pending. Additionally, the commenter requests the Board to exercise its discretion to apply the same principle at P.L.

2021, c. 317, § 7(c), to electric and gas utilities. For customers eligible for the WTP, requiring a down-payment creates an unnecessary barrier to service. If this provision is retained, it should be revised to state that service must be restored while any dispute is pending with the Board regarding the down-payment. (NRDC)

RESPONSE: The Board disagrees that the WTP down-payment requirement is inconsistent with P.L. 2021, c. 317, § 7(c), which only applies to water public utility residential customers that can prove they have submitted an application for assistance under LIHWAP or any other State, local, or utility program that provides assistance or discounted rates specifically to help eligible customers pay sewer or water bills. The rule provides that WTP-eligible customers make a down-payment of up to 25 percent to get service restored. Therefore, the down-payment could be zero percent for customers who are covered by P.L. 2021, c. 317, § 7(c). The current and proposed WTP rules clearly set forth the guidelines for participation in the WTP. In addition, the evolving Customer Bill of Rights sets forth utility customer protections, including to electric and gas customers.

108. COMMENT: The commenter states the WTP rule should be revised to protect tenants who are not the utility account holder from discontinuance of service to their residence during the heating season, if the tenant otherwise meets the WTP eligibility criteria at N.J.A.C. 14:3-3A.5(a). (NRDC)

RESPONSE: Tenants in this situation are not the customer of record and, therefore, are not eligible for protections pursuant to the WTP. The current rules regarding a landlord-tenant relationship adequately protect tenants. See N.J.A.C. 14:3-3A.6.

N.J.A.C. 14:3-3A.6 Discontinuance of Service to Tenants

109. COMMENT: The commenter supports the proposed modification that states where a landlord-tenant relationship is known to exist, all electric, gas, water, and wastewater utilities must notify the landlord that a tenant’s utility service has been discontinued and offer the landlord the opportunity to have the tenant’s utility service placed in the landlord’s name. (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

110. COMMENT: N.J.A.C. 14:3-3A.6(a) and (b) require utilities to provide a 15-day notice of discontinuance to tenants who are not the account holder. This notice period should be longer. Unlike the landlord-account holder, tenants would not have any idea that a bill is overdue before a shutoff notice arrives. In order to give tenants a fair opportunity to become the account holder or, if the tenant prefers, to make alternative housing arrangements, before service is disconnected, the tenant should be given at least 30 days’ notice. (NRDC)

RESPONSE: The Board believes that the rules adequately protect customers. The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these landlord-tenant matters. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter’s 30-day suggestion and how much longer the period should be if the Board were to extend it. The Board welcomes the commenters’ participation in this and other future rulemakings.

111. COMMENT: N.J.A.C. 14:3-3A.6 requires the utility to offer the tenant the opportunity to have service billed directly to the tenant, “unless the utility demonstrates that such billing is not feasible.” If it is not feasible, it appears that the rule allows the utility to discontinue service to the tenant based on the landlord’s nonpayment, which may actually constitute a violation of the tenant’s Constitutional rights. Especially for water, billing the tenant directly will often be infeasible because most multi-family buildings are master-metered for water. This subjects tenants to loss of essential utility service through no fault of their own. The rule should be revised to follow the example of Connecticut, which prohibits discontinuance of service due to a landlord’s nonpayment where it is not feasible to provide service to the tenant in the tenant’s own name. (NRDC)

RESPONSE: The Board notes the commenter’s concerns where a landlord-tenant relationship exists. The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional

rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues, as necessary. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's suggestion. It could also include that an evaluation of the commenter's suggestion might not be feasible. For example, with a large apartment building with many apartments, it may not be feasible to put the utility bill in the name of a single tenant where the tenant would be responsible for the entire bill. In this case, it would not be reasonable for the utility to continue service to the building indefinitely if the bill is not being paid and pass this cost on to all other customers. The Board welcomes the commenters' participation in this and other future rulemakings.

112. COMMENT: N.J.A.C. 14:3-3A.6(e)—It appears that the reference at the end of this sentence to “(a) or (b) above” was intended to be a reference to “(c) or (d) above.” This should be corrected. (NRDC)

RESPONSE: The Board thanks the commenter for the comment. The Board recognizes the cross-reference error and makes the correction at N.J.A.C. 14:3-3A.6(e).

N.J.A.C. 14:3-3A.9 Basis for Restoration

113. COMMENT: The commenter believes that the proposed rule, at paragraphs (e)2 and 3 is inconsistent with the current Customer Bill of Rights and makes reconnection of service more difficult for a customer. As such, the proposed provisions should be deleted in their entirety. The commenter believes that the Board may lack authority to require prompt reconnection of service. N.J.A.C. 14:3-3A.9 should be revised to provide a right to immediate reconnection: 1. if termination was improper for any reason; 2. if a customer has applied, or if necessary to enable a customer to apply for assistance implementing the current BPU Customer Bill of Rights, and as mandated at N.J.S.A. 48:2-29.55.c, effective December 21, 2021, for water customers who have applied for assistance; or 3. if the customer raises a bona fide dispute (and pays, enters into a DPA, or applies for assistance to cover any undisputed charges). (LSNJ)

RESPONSE: The Board believes the proposed rule increases the opportunities and likelihood of customers being restored after discontinuance for non-payment. The Board does not see any contradiction between the proposed provisions and the Customer Bill of Rights, as well as recent legislation. In accordance with N.J.A.C. 14:3-3A.9, Board staff has the authority to request immediate prompt restoration of service. Moreover, utilities have been more than cooperative with restoring service, especially in cases where there is a medical emergency.

114. COMMENT: The proposed amendment, which adds a new requirement to reconnect customers who have indicated they applied for qualifying assistance programs, will substantially hinder the ability to collect on outstanding account balances and will result in all customers paying more for electric service. New Jersey recently enacted P.L. 2022, c. 4, which instituted a similar protection for customers through June 15, 2022. The proposed regulation drastically expands this protection by making it applicable all year round and into perpetuity (and without regard for whether the customer applying for the assistance is even eligible for it). The commenter is concerned about abuse of this customer protection. The commenter encourages the Board to make it clear that its intent is for the protection to be used only one time during any 12-month period by changing paragraph (e)2 of the proposed language as follows: “(2) The residential customer was not enrolled in any of the assistance programs listed above and was not reconnected under this provision during the [prior year] prior twelve months.” (JCP&L)

RESPONSE: The new provisions at N.J.A.C. 14:3-3A.9(e), which require the reconnection of a residential customer's utility service, provided that the residential customer was not enrolled in any of the eligible assistance programs during the prior year and that they have made a down payment of up to 25 percent of the outstanding balance consistent with N.J.A.C. 14:3-3A.5(b), are designed to help avoid abuse of the protection. With these provisions in place, the Board believes it has struck the proper balance between providing this protection to customers that need it while ensuring that abuse of the protection is limited. As such, the Board declines to make the suggested change to paragraph (e)2.

115. COMMENT: The commenter states the proposed rule adds new N.J.A.C. 14:3-3A.9(e), which provides that a utility shall reconnect service to a residential customer that has applied for certain utility assistance programs, provided that the customer meets two additional conditions. The conditions are that the customer “was not enrolled in any of the [listed] assistance programs during the prior year” and “has made a down payment of up to 25 percent of the outstanding balance consistent with N.J.A.C. 14:3-3A.5(b).” These two additional conditions must be removed, for several reasons: First, these conditions make proposed N.J.A.C. 14:3-3A.9(e) weaker than consumer protections currently included in the Board's Customer Bill of Rights. Second, the down payment requirement violates the Winter Termination Program, P.L. 2021, c. 317, § 7(c). That law directs the Board to require, without qualification, that water customers eligible for the WTP must have service restored if they apply for bill payment assistance, while their application is pending. Third, as stated in the context of the WTP rules, the down-payment requirement of N.J.A.C. 14:3-3A.5(b) should be eliminated entirely. As explained above, it presents a clear and unnecessary barrier to financially stressed customers gaining access to an essential service. Moreover, it would unfairly require customers to make a payment that may ultimately be covered by the assistance program to which the customer has applied. Fourth, there is no justification for limiting the right to service restoration to customers who were not enrolled in the prior year in the assistance program to which they have applied. (NRDC)

RESPONSE: The Board believes that the current and proposed rules, as well as the Customer Bill of Rights, protect all customers. Regarding the suggested removal of the two additional conditions, these conditions are meant to protect all customers during each specific program year and are meant to prevent systematic abuse of program guidelines. The proposed rule, requiring a payment of up to 25 percent of the outstanding balance, protects customers and strikes a balance between protecting the customer who makes this payment and the remaining customers who bear the cost of uncollectibles that occur when a customer does not pay their bill. Further, the Board notes that the requirement is that customers make a down-payment of up to 25 percent, not 25 percent, and, therefore, the down-payment can be less based on the customer's specific financial situation. For example, the down-payment would be zero percent for customers who are covered by P.L. 2021, c. 317, § 7(c). Regarding the commenter's additional points, this protection is in legislation due to expire, and the Bill of Rights, which is an evolving document. The Board notes that restoration opportunities are negotiable through the complaint process at N.J.A.C. 14:3-3A.9.

116. COMMENT: N.J.A.C. 14:3-3A.9(a)2 requires “payment of all charges” to secure restoration of service. It does not allow a disconnected customer to restore service by entering into a Deferred Payment Agreement (DPA); as a result, it seems that the right to a DPA only applies before service has been discontinued for non-payment. This limitation undermines the purpose of a DPA, which is to allow a customer in arrears to maintain service by making payments over time, when the customer cannot afford to immediately pay all arrears. There is no reason why customers that have already been discontinued for non-payment should not be able to avail themselves of the same right. Therefore, the rule should be amended to provide that, when a discontinuance was for nonpayment, entering into a DPA will entitle the customer to restoration of service. (NRDC)

RESPONSE: The meaning of “all charges” in this rule means all charges currently due. Therefore, if a DPA is entered into, the customer would pay the current payment due, not the total amount outstanding. The Board believes the customer is sufficiently protected by this provision since it does not require payment of the full balance due for restoration.

117. COMMENT: Consistent with the changes recommended in prior comments to the deposit rules at N.J.A.C. 14:3-3.4, N.J.A.C. 14:3-3A.9(c) should be amended to prohibit requiring a deposit from a residential customer, or at a minimum, from any WTP-eligible customer, when reconnecting service after a discontinuance for non-payment. (NRDC)

RESPONSE: The Board believes that the current rule and proposed rules regarding imposition of deposits protect customers and provide an opportunity for a payment arrangement to be established that is based on the customer's specific financial circumstances. The proposed rule strikes a balance between protecting the customer who makes this deposit and the

remaining customers who bear the cost of uncollectibles that occur when a customer does not pay their bill.

118. COMMENT: The commenter supports extending from 15 days to 20 days the time allowed to pay any required deposit following restoration of service. However, if the time periods for payment of a bill for service pursuant to N.J.A.C. 14:3-3A.3 are changed to longer than 20 days (as recommended in prior comments), the same change should be made here regarding the time period for payment of a deposit. (NRDC)

RESPONSE: For the reasons set forth in the Response to Comment 84, the Board is not proposing to change the timeframe for payment of a bill to longer than 20 days. As such, the Board declines to make the proposed change.

119. COMMENT: The commenter recommends that customers be provided with the right to immediate reconnection if termination was improper for any reason, if necessary to enable a customer to apply for assistance, or if the customer raises a bona fide dispute. (NRDC)

RESPONSE: The Board appreciates the commenter's concerns and notes that each restoration of service is based upon a utility's ability to deploy workers to perform the restoration within the required 12-hour period. In addition, if there is a medical emergency, the utility will make every effort to restore the service as soon as possible.

120. COMMENT: A provision should be added to prohibit reconnection fees, or to at least prohibit such fees for WTP-eligible customers and require that any reconnection fees charged to others do not exceed the actual cost to the utility of performing the reconnection. (NRDC)

RESPONSE: The Board notes that reconnection fees are appropriate because they ensure that the cost of reconnection is paid for by the customer being reconnected and not subsidized by other customers. The level of reconnection fees is established in the base rate cases of each utility, wherein the parties have the opportunity to thoroughly examine the fees, and the Board can set these fees at a level that allows for the recovery of prudently incurred costs and are set at a level that is just and reasonable. As such, the Board declines to make the proposed change.

121. COMMENT: The commenter states a provision should be added to prohibit disconnection fees, or to at least prohibit such fees for WTP-eligible customers and require that any disconnection fees charged to others do not exceed the actual cost to the utility of performing the disconnection. Like reconnection fees, a disconnection fee only adds to the burden of a customer who already is unable to afford utility bills. (NRDC)

RESPONSE: It is the Board's understanding that the utilities do not charge disconnection fees.

122. COMMENT: The commenter supports the proposed modification allowing the electric, gas, water, or wastewater customers at least 20 days after billing to pay the deposit or make other reasonable payment arrangements. The commenter does not object to the modification requiring restoration of service to a customer who has applied to certain payment assistance programs and makes a down-payment of up to 25 percent of the outstanding balance. (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

N.J.A.C. 14:3-4.3 Definitions

123. COMMENT: The commenter recommends adding the following definition at N.J.A.C. 14:3-4.3: "meter" means a meter and equipment or software used by the utility for reading the meter or determining the customer's usage for purposes of billing. (NJRC)

RESPONSE: The Board believes that leaving the term "meter" undefined allows Board staff the flexibility to have the utility test the meter equipment based on technology as it develops. Creating a definition based on current technology would restrict Board staff's ability to adapt procedures with developing technology.

N.J.A.C. 14:3-4.4 Testing of Utility Meter Testing Equipment

124. COMMENT: The commenter opposes the proposed new requirements that: 1) all out-of-State meter testing shops that begin testing meters of New Jersey customers after December 31, 2021, require prior Board approval; and 2) out-of-State meter shops that test meters of New Jersey customers may be inspected by Board staff at the utility's expense. The commenter notes that the Board offered no detail or explanation

regarding the proposed language or the approval process envisioned by the Board. The commenter asserts that it is not appropriate that the proposed requirement be enacted retroactively. The commenter has achieved operational efficiencies by testing New Jersey customer meters in its affiliate's meter shops outside of New Jersey and welcomes Board staff inspections at these facilities. (ACE)

RESPONSE: The intent of this change is to enforce existing requirements that meter testing be conducted in accordance with State rules, including certification requirements. Utilities may continue to test meters out-of-State, but they must advise the Board, request approval, and maintain certifications of these facilities in accordance with N.J.A.C. 14:3-4.4. The rules at N.J.A.C. 14:3-4.4 presently require that all utility meter testing locations meet specific certification requirements. The new requirement that testing shops that begin testing meters of New Jersey customers after December 31, 2021, require prior Board approval ensures that Board staff is given the opportunity to verify that these testing locations meet these existing requirements, while preserving the operational efficiencies. The Board clarifies that this is not a retroactive application of the rule.

N.J.A.C. 14:3-4.5 Meter Tests at a Customer's Request

125. COMMENT: The commenter opposes the proposed new requirement that "all costs associated with the meter test shall be borne by the utility." While the commenter agrees that the actual, true, internal cost of conducting the meter test should be borne by the appropriate utility, there are no parameters around what costs could be deemed "associated with the meter test" and for companies with locations outside of New Jersey, the associated costs could dramatically exceed the cost of the actual meter test. Accordingly, the commenter asserts that any costs beyond the meter test or any third-party costs should not be the utility's responsibility. (ACE)

RESPONSE: The Board acknowledges the desire of the utilities to obtain operational efficiencies from having meter testing shops outside of the State. However, for customer-requested meter tests, these operational efficiencies should not be achieved by unduly shifting the cost of the meter test to the customer. Therefore, these customer-requested meter tests should always be performed in the service territory of the customer's utility. In a utility's analysis of whether or not it is cost effective to locate a meter testing shop outside of its service territory, the utility should consider all of the costs of having this test outside of its service territory and be responsible for these costs. The utility already bears costs related to the meter test, including the collecting, transportation, and testing of the meter. If a utility chooses to have its meter testing locations outside of New Jersey, it is appropriate for the costs of transportation of Board staff to witness the meter test to be borne by the utility, as set forth in this section of the rule.

126. COMMENT: The proposed modification at N.J.A.C. 14:3-4.5 removes the requesting customer's obligation to pay a \$5.00 fee and, instead, inserts a requirement that "[a]ll costs associated with the meter test shall be borne by the utility." This is a massive expansion of the utilities' responsibilities for costs. Currently, the utility incurs its own costs associated with the meter test, the customer incurs their own costs, and the costs for the Board's participation are covered either by the \$5.00 customer fee or by the utility (through its reimbursement to the customer if the meter is running fast). The commenter respectfully requests that the Board clarify the proposed amendment to indicate that the utilities are responsible for only the Board's costs associated with the meter test. While the commenter recognizes the shift in policy as it relates to utilities covering the Board's costs associated with a customer-requested meter test, principles of cost causation should dictate that the customer who requested the test should continue to be responsible for at least their own costs related to such test. (JCP&L)

RESPONSE: The Board acknowledges the desire of the utilities to obtain operational efficiencies from having meter testing shops outside of the State. However, for customer-requested meter tests, these operational efficiencies should not be achieved by unduly shifting the cost of the meter test to the customer. Therefore, these customer-requested meter tests should always be performed in the service territory of the customer's utility. In a utility's analysis of whether or not it is cost effective to locate a meter testing shop outside of its service territory, the utility should

consider all of the costs of having this test outside of its service territory and be responsible for these costs. The utility already bears costs related to the meter test, including the collecting, transportation, and testing of the meter. If a utility chooses to have its meter testing locations outside of New Jersey, it is appropriate for the costs of transportation of Board staff to witness the meter test to be borne by the utility, as set forth in this section of the proposed rule. Regarding the elimination of the \$5.00 customer fee, the \$5.00 was paid to the State of New Jersey, not the utility, and, therefore, its elimination has no effect on the utility's costs.

127. COMMENT: The commenter supports the proposal eliminating the \$5.00 fee for a ratepayer to request a Board-supervised meter check. N.J.A.C. 14:3-4.5(f). (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

N.J.A.C. 14:3-4.6 Adjustment of Charges for Meter Error

128. COMMENT: The proposed amendments at N.J.A.C. 14:3-4.6(f) should be clarified to avoid any confusion that may arise as a result of duplicative language. The commenter supports the proposed change at N.J.A.C. 14:3-4.6(f). However, the first sentence proposed to be added is duplicative of the already existing requirement at subsection (f), to allow for amortization of such charges in cases of theft or tampering. To avoid confusion, the commenter recommends that the first proposed sentence not be included in the final adopted rule. (JCP&L)

RESPONSE: The Board notes the commenter's concern, but does not believe that confusion will arise from this section.

N.J.A.C. 14:3-5.2 Contacting the Utility

129. COMMENT: The commenter notes that telephone utilities already must comply with standards for customer calls, pursuant to N.J.A.C. 14:10-1A.8. The commenter recommends adding performance standards for customer calls. The commenter recommends that each utility be required to answer calls from customers promptly, which includes answering an average call with 60 seconds, answering at least 80 percent of calls within 30 seconds, and losing less than five percent of customer calls. The commenter recommends that each utility be required to report on a semi-annual basis to the Board and Rate Counsel its performance on this call-answering criteria. (NJRC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues, such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to performance standards for customer calls and reporting requirements, if it is deemed necessary and/or beneficial. This information could include, but not be limited to, an evaluation of what the most appropriate metric would be, the layout of the reports, and the frequency of the reports. The Board welcomes the commenters' participation in this and other future rulemakings.

N.J.A.C. 14:3-6.1 General Provisions for Records and Reporting

130. COMMENT: The commenter recommends that the Board incorporate into N.J.A.C. 14:3-6, comprehensive reporting requirements relating to utility affordability, including data on customer arrears, discontinuance of service for nonpayment and other collections practices, and customer participation in assistance programs. Rate Counsel, intervenors, and participants in the Board's COVID-19 docket have called on the Board to require utilities to report key data on these matters. There is an ongoing need, regardless of the pandemic, to collect and release publicly this data, in order to provide effective oversight and accountability of utilities to the populations they are meant to serve, and to enable the Board and other policymakers to assess, on an ongoing basis, whether or not existing rules and programs are effective at maintaining access to affordable utility service. (NRDC)

RESPONSE: Utilities are reporting certain key data per the legislation, as well as the Board's COVID-19 docket requirements. The Board reviews customer protection issues on an ongoing basis and the Board anticipates additional rulemaking in the future to address customer protection issues such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to the affordability of utility

service, if deemed necessary and/or beneficial. The Board welcomes the commenters' participation in this and other future rulemakings.

N.J.A.C. 14:3-6.2 Plant and Operating Records

131. COMMENT: The commenter states that the references at N.J.A.C. 14:3-6.2(d) and (h) to N.J.A.C. 14:3-8.2 are incorrect and should both be changed to N.J.A.C. 14:3-8.3. (NJRC)

RESPONSE: N.J.A.C. 14:3-6.2(d) references the definition of "extensions." This term is defined at N.J.A.C. 14:3-8.2, not N.J.A.C. 14:3-8.3. Therefore, the reference to N.J.A.C. 14:3-8.2 is correct. Existing N.J.A.C. 14:3-6.2(h) also references the definition of "extensions," which is defined at N.J.A.C. 14:3-8.2. However, N.J.A.C. 14:3-6.2(h) is proposed to be deleted.

N.J.A.C. 14:3-6.3 Financial and Operations Reports

132. COMMENT: The commenter suggests that, in addition to the rulemaking requiring utilities to submit reports quarterly and monthly, as directed, when those reports are required pursuant to a Board Order, the utility should be penalized \$100.00 per day for noncompliance, as required at N.J.S.A. 48:2-42. (NJRC)

RESPONSE: As the commenter indicates, N.J.S.A. 48:2-42 already provides penalties for noncompliance with Board orders. It is not necessary to duplicate those penalties in the Board's rules in order to make them applicable.

N.J.A.C. 14:3-6.4 Accidents-Initial Reporting

133. COMMENT: The commenter objects to reducing the reporting time from two hours to one hour. The first hour of an incident is dedicated to safety and performing the necessary repairs to minimize any further impacts on people, property, or the network. The commenter states that there is not enough time in an emergency response situation to gather and summarize information for a report to the Board within one hour of an incident. However, the commenter supports increasing the dollar amount of a reportable accident from \$5,000 to \$122,000. (Verizon)

134. COMMENT: The commenter has concerns regarding the amendment that would reduce the required reporting time from two hours to one hour for reportable events. The commenter contends that it is impractical, and perhaps infeasible, because the facts and circumstances surrounding an accident are not necessarily clear within an hour of learning of a potentially reportable accident. Instead of the current or proposed reporting timeframes, the commenter recommends requirements that the commenter states are in place in the State of Delaware. Under the commenter's suggestion, each utility would be required to provide notice of any accident involving a fatal injury as soon as possible within 24 hours after the utility learns of the accident and to provide notice of apparently non-fatal, as well as fatal accidents to the extent possible, within 72 hours after the utility learns of the accident. (ACE)

RESPONSE TO COMMENTS 133 AND 134: The Board appreciates the commenters' comments; however, the one-hour reporting time is necessary to aid in an active response. The Board recognizes that not all details are immediately known, which is why the rules specify an initial and follow-up report. As such, the Board finds that the proposed rules are reasonable and proper.

135. COMMENT: The commenter disagrees with the proposed change that a utility must inform the Board when property damage amounts to more than \$50,000, raised from \$5,000. Although the commenter supports the one-hour reporting timeframe, down from two hours, the commenter believes the one-hour timeframe may make it more difficult for the utility to accurately assess if damage is in excess of \$50,000, as opposed to \$5,000. (NJRC)

RESPONSE: The Board notes that the published rule increases the reportable threshold to \$122,000. This is consistent with the Code of Federal Regulations, 49 CFR 191.3.

N.J.A.C. 14:3-6.7 Reporting Suspicious Acts

136. COMMENT: The commenter notes that applying the proposed cyber security requirements to telecommunications is not necessary and would create a burdensome compliance scheme that provides no benefit to anyone. The amount of reportable information would require both the Board and each company to implement costly new business functions to manage reporting information on a minute-by-minute basis. In addition,

the commenter questions whether the Board's IT security systems are sufficiently secure to protect the sensitive data and suggests that duplicating data could increase the risk of a security breach. The commenter also states that firms already cooperate with several Federal agencies to minimize the effects of cyber attacks. The commenter urges the Board to remove both "cyber attack" and "cyber intrusion" from the proposed revision at N.J.A.C. 14:3-6.7(a)6 and 7, as well as the proposed correlating definitions pursuant to N.J.A.C. 14:3-1.1. The commenter encourages Board staff to create additional opportunity for collaboration with impacted stakeholders, including law enforcement, to discuss and improve the proposed cyber-related revisions and discuss cyber readiness, in light of today's current events. (Verizon)

RESPONSE: The Board declines to remove "cyber attack" and "cyber intrusion" from the proposed rules. Reporting information regarding cyber incidents is already a requirement for electric, natural gas, water, and wastewater utilities, pursuant to the March 18, 2016, Order of the Board in *In re the Utility Cyber Security Program Requirements*, BPU Docket No. AO16030196. The Board is concerned regarding the occurrences of "cyber attacks" and "cyber intrusions," as these can have serious negative effects on the utilities' abilities to provide safe and reliable service to customers. This is true for telecommunications utilities, as it is for other utilities. In addition, cyber incidents that affect one utility often affect other utilities. Receiving this information from all of the utilities allows Board staff to share increases in certain types of events with other New Jersey utilities, so that they can be prepared and implement safeguards to avoid these incidents. The Board believes that the benefits of receiving this information outweigh any inconvenience related to providing the information. The Board maintains sensitive confidential information that far exceeds the information that the Board is collecting through this regulation. The Board's information technology systems are linked to the systems of, and compliant with, the protocols of the State of New Jersey's Office of Information Technology, and sufficient to protect the sensitive data. In addition, Board staff that collect cyber incident information have security clearance through the Office of Homeland Security and are cognizant of the protocols regarding maintaining the confidentiality of sensitive information.

137. COMMENT: The commenter states that in order to ensure that the proposed amendments fulfill their purpose without hindering the utilities' timely responses to cyber incidents, they should be modified so the reporting obligation requires utilities to report to the Board within six hours of becoming aware of a "confirmed" cyber attack or "confirmed" attempted cyber intrusion. Such incidents often manifest their presence through degraded system performance. However, such degraded system performance—for example, system sluggishness—can be the result of non-suspicious causes, such as technology failure, system overload, or user error. When degraded performance is first detected, it can take several hours to determine that it could be due to a cyber attack or attempted cyber intrusion, and then several more hours to confirm that it is, in fact, the result of such an incident. The commenter, therefore, respectfully suggested that the proposed regulation requirements be modified to specifically indicate confirmed cyber attacks. (NJAWC)

RESPONSE: The Board declines to make the commenter's recommended changes on the basis that the intent is to report these situations in a timely manner because the cyber attack, or attempted cyber intrusion, is causing outages or impacting service. If a utility's computer system is sluggish due to a non-suspicious cause, it will become apparent upon investigation. A sluggish computer would not automatically trigger the reporting requirement. If, after investigating the problem, the utility believes it may be due to a cyber attack or an attempted cyber intrusion, then this would trigger the six-hour reporting requirement.

138. COMMENT: The commenter opposes the proposed requirement to report cyber attacks resulting in outages and/or service issues, confirmed breach, or confirmed intrusion; and an attempted cyber intrusion of a utility computer system, resulting in slowing, disruption, or other impacting services. The commenter notes that significant work has already been done at the Federal level, making reporting standards at the State level redundant, counterproductive, and a hindrance to a company's ability to respond efficiently. The Board should delay adding any reporting obligations until the implementation of the Cyber Incident Reporting for Critical Infrastructure Act of 2022, including an upcoming

rulemaking by the Cybersecurity and Infrastructure Security Agency, is complete to ensure coordination and consistency. The commenter recommends that instead of creating reporting requirements, the Board should continue to work directly, on an informal basis, with utilities and others affected by cyber crimes. In addition, the commenter asserts that the six-hour window for reporting is unworkable because: (1) additional time is required for investigations; (2) the inclusion of attempted intrusions is overly inclusive and could quickly become burdensome for the Board and the reporting utilities; (3) the failure to include any protections for confidential treatment or limitation of liability adds additional risk for the industry; (4) State-level reporting may be inconsistent with Federal-level or agency reporting requirements; and (5) mandatory reporting requirements subject victims of the cyber attack or intrusion to fines and penalties for failure to report. According to the commenter, any mandatory Federal reporting framework should include suggestions, as described in the Coalition Letter on Cybersecurity Reporting. (Lumen)

RESPONSE: Reporting information regarding cyber incidents is already a requirement for electric, natural gas, water, and wastewater utilities, pursuant to the March 18, 2016, Order of the Board in *In re the Utility Cyber Security Program Requirements*, BPU Docket No. AO16030196. The Board is concerned regarding the occurrences of "cyber attacks" and "cyber intrusions," as these can have serious negative effects on the utilities' abilities to provide safe and reliable service to customers. This is as true for telecommunications utilities as it is for other utilities. In addition, cyber incidents that affect one utility often affect other utilities. Receiving this information from all of the utilities allows Board staff to share increases in certain types of events with other New Jersey utilities, so that they can be prepared and implement safeguards to avoid these incidents. The Board believes that the benefits of receiving this information outweighs any inconvenience related to providing the information. In addition, due to the potential consequences of cyber incidents, the Board does not believe that it would be wise to delay implementation of the new reporting requirements, as requested by the commenter.

139. COMMENT: The commenter asserts that the Board should not depart from the requirements outlined in its Cyber Security Order, BPU Docket No. AO16030196, which implemented cyber security protocols and requirements after consultation with the electric, gas, water, and wastewater companies. Should the Board determine that some revision is needed, consistent with the commenter's recommendations related to the definitions at N.J.A.C. 14:3-1.1, the commenter proposes that "cyber attack" should be removed from this section and replaced with "cyber event." In addition, the commenter believes that reporting requirements for "attempted" cyber intrusions are burdensome and, therefore, recommends eliminating this proposed requirement. (ACE)

RESPONSE: The Board believes that the requirements of the proposed rule complement the requirements of the March 18, 2016, Order of the Board in *In re the Utility Cyber Security Program Requirements*, BPU Docket No. AO16030196, and match current Federal requirements for expanded information.

140. COMMENT: The Board should be commended for its leadership in developing comprehensive cyber security requirements over the past decade, as exemplified in the Board's 2016 Cyber Security Order, and, as such, the commenter believes the current rules and orders are sufficiently comprehensive. Specifically, with regard to the proposed cyber reporting requirement that all cyber attack attempts be reported to law enforcement officials and the Board within six hours, this requirement may provide little value to the Board. The existing rules require utilities to report, within six hours, confirmed cyber breaches or intrusions of ICS/SCADA systems, not attempts. Cyber attack attempts happen on a regular basis and are routinely blocked by utility company systems. Therefore, the utilities recommend that cyber "attack" should be excluded from N.J.A.C. 14:3-6.7. In addition, the rulemaking makes changes to a number of definitions, as well as provides changes for cyber reporting requirements. The commenter recommends the Board not depart from its Cyber Security Order in Docket No. AO16030196, which carefully implemented cyber security protocols and requirements after consultation with the electric, gas, water, and wastewater companies. Any attempt to propose definitions, or new requirements, should be consistent with the existing

Board Order and include meaningful input from impacted utilities. (NJUA)

RESPONSE: The Board believes that the requirements of the proposed rule complement the requirements of the March 18, 2016, Order of the Board in *In re the Utility Cyber Security Program Requirements*, BPU Docket No. AO16030196, and match current Federal requirements for expanded information.

N.J.A.C. 14:3-7.2 Form of Bill for Metered Service

141. COMMENT: N.J.A.C. 14:3-7.2(e)3i proposes to add language stating that, in the case of estimated bills, a utility shall not bill a customer in excess of 24 months since the last actual reading, unless the utility has taken all necessary actions to read the meter. This implies, however, that a utility may bill a customer up to 24 months since the last reading, even if the utility has not taken all required steps to read the meter. This is grossly unfair to the customer. The maximum period of time for estimated billing should be much shorter, and there should be a maximum number of times per year when an estimated bill is allowed. (NRDC)

RESPONSE: As part of a utility's responsibility to provide safe, adequate, and proper service, the utility is required to make a reasonable effort to read all meters, pursuant to N.J.A.C. 14:3-7.2(e)1. In addition, it is in the company's best financial interest to do so in order to accurately bill and collect costs from customers. In some cases, meters are inside of a home, and a customer may not allow the utility access to a meter. Setting a period of time that is shorter may increase the number of customer shutoffs in these cases. Setting a period of time that is longer than 24 months increases the amount that a customer's estimated bill may differ from their actual bill, which can lead to a customer receiving a very large bill when the bill is ultimately read. The Board believes that the 24-month period strikes a proper balance on this issue.

142. COMMENT: N.J.A.C. 14:3-7.2(e)5 states that if a meter reading results in a bill that is at least 25 percent higher than a prior estimated bill, the utility shall allow the customer to amortize the excess amount "in equal installments over a period of time equal to the period when no actual reading was taken by the customer or the utility." This could result in very significant additional monthly charges during the amortization period and could also exclude from amortization excess charges that would pose significant financial hardship to some customers (that is, amounts less than 25 percent higher than the prior estimated bill may still be substantial). In effect, the rule penalizes the customer for the utility's prior under-estimate, especially where the customer is low-income and has a tight monthly budget. The commenter recommends a change to this rule that would limit the total amount of "under-billing" on prior estimated bills that the utility can recover at all. For any allowable recovery, customers should be given the option to handle the charge in the same manner as a deferred payment agreement at N.J.A.C. 14:3-7.7. (NRDC)

RESPONSE: The Board disagrees that the rule penalizes the customer for the utility's prior under-estimate. Had the utility read the meter and provided the customer with an actual bill the prior month, the customer would have owed a larger amount sooner than if the utility under-billed the customer due to an estimated reading. This provision ensures that when the actual bill is 25 percent greater than the prior estimated bill, the customer will have time to pay the under-billed amount over a period of time; therefore, the provision gives the customer additional time, not less time, to pay the bill. It would not be appropriate for a customer to be relieved of their responsibility to pay for utility service that they received simply because the customer received an estimated bill that produced a bill in the next month that was equal to or more than 25 percent higher. If the customer were relieved of this responsibility, this cost would be inappropriately absorbed by the utility or other customers. The Board acknowledges that some customers may have difficulty paying an actual bill that is less than 25 percent greater than the prior estimated bill. However, pursuant to N.J.A.C. 14:3-7.2(e)2i, the customer has the ability to read the meter and provide the actual reading to the utility to have their bills calculated based on actual meter readings, or to have an estimated bill that they received recalculated based on an actual meter reading. Moreover, if the customer has difficulty paying the bill, the customer can reach out to the utility and request a DPA. Therefore, while the Board believes that the trigger of "at least 25 percent higher than a prior estimated bill," is the appropriate trigger for the ability to amortize an

estimated bill, the customer can always request a DPA to spread their payments out for any bill that they have difficulty paying. The Board also notes that customer bills fluctuate for reasons other than the estimated meter reading. For example, increased usage by the customer due to seasonal changes could, in some cases, result in a bill that is 25 percent higher than the prior month even if the utility had over-estimated the customer's usage.

143. COMMENT: The commenter states two new provisions should be added to help avoid spikes in a customer's bills due to meter inaccuracies or water leaks:

a) Water utilities (and wastewater utilities that charge based on metered water usage) should be required to notify a customer of any irregular spike in usage that may indicate a leak.

b) All utilities should be required to monitor their billing records to detect any irregular spike in usage without apparent explanation, which may indicate a meter malfunction. Where such a spike is identified, the utility should be required to contact the customer to offer to test the customer's meter at no charge. (NRDC)

RESPONSE: The Board believes that current rule and rule changes adequately protect customers. Customers already have the ability to look at their usage on their bill. If they see an unusual increase in usage, they may have the meter tested or they may examine the facilities in their homes to determine if there is a leak or another potential problem. As such, the Board declines to make the commenter's suggested changes.

144. COMMENT: The commenter recommends that utilities enhance efforts to secure customer meter readings through automated calls and emails and allow customers to post meter readings through its website. The commenter also recommends that the proposed language at N.J.A.C. 14:3-7.2(e)3i, stating that a utility shall not bill more than 24 months of estimates unless it has used all reasonable means to obtain a reading, should be modified to prohibit the utility from recovering any lost revenue associated with this provision from ratepayers. The proposed new provision could result in additional disconnections, including in situations that are not the fault of the customer, such as when a landlord impedes access to a meter. Regarding the proposed provision at paragraph (e)5 that would require a utility to give customers the option to amortize an actual bill that is at least 25 percent greater than the prior estimated bill, the commenter recommends that the amortization be done automatically for bills that meet the criteria, rather than merely giving the customer this option. The commenter also suggests that prior to disconnecting a residential customer due to no customer response to its attempts to read a meter that has been estimated for a specific period, the utility be required to make every attempt to determine if a landlord-tenant situation exists at the location and, if so, provide notification in accordance with N.J.A.C. 14:3-3A.6. (NJRC)

RESPONSE: The Board believes that the current rule and proposed rule changes protect customers. N.J.A.C. 14:3-7.2(e)2i provides that a customer may submit their meter reading to the utility through the telephone or reply card. In addition, while not all utility companies have the capability of accepting online readings, many utilities that have that capability already provide this option. Please see the Response to Comment 142 regarding the commenter's recommendation that the utilities absorb the cost of lost revenue. The Board notes that it does not have jurisdiction to require a landlord to allow access to a meter. In addition, while it may not be the customer's fault if a landlord does not allow timely access to a meter, it would be inappropriate to require the utility, or other customers, to pay for this customer's usage in these cases. Additionally, the Board recognizes that, pursuant to N.J.A.C. 14:3-3A.6(a), electric, gas, water, and wastewater public utilities are already required to make every reasonable attempt to determine when a landlord-tenant relationship exists at the premises being served. The rules provide ways a customer can obtain or provide an accurate meter reading. In addition, the customer has the opportunity to contact the Board to dispute any estimated meter reading that it believes is inaccurate, as well as the billing amount at that time. In addition, Board staff has the ability to question the meter reading on behalf of the customer during the investigation of the complaint. Furthermore, the Board does not believe it would be beneficial to customers to implement a bill amortization automatically, rather than upon request of the customer, as proposed by the commenter. Some customers may prefer to pay the amount they owe

when it comes due and not have their bill automatically amortized, creating larger balances due later. The commenter recommended that a provision be added to this section of the rules requiring that prior to disconnecting a residential customer due to no customer response to its attempts to read a meter that has been estimated for a specific period, a utility make every attempt to determine if a landlord-tenant situation exists at a location and, if so, provide notification in accordance with N.J.A.C. 14:3-3A.6. However, N.J.A.C. 14:3-3A.6(a) already provides that electric, gas, water, and wastewater public utilities shall make every reasonable attempt to determine when a landlord-tenant relationship exists at premises being serviced and includes provisions that apply in those cases. Therefore, it is not necessary to add that provision here.

N.J.A.C. 14:3-7.4 Method of Billing

145. COMMENT: The commenter recommends that N.J.A.C. 14:3-7.4 be amended to require utilities to offer the following two options at no additional cost to the customer: 1) allow a customer to pick their billing date; or 2) allow a customer to select online billing. (NRDC)

RESPONSE: The Board notes that the majority of utilities currently offer online billing. Customers have the liberty of contesting their bills should they feel they are inaccurate. With regard to picking a billing date, technology may provide for that opportunity in the future; however, at present, bills are produced according to meter reading dates.

146. COMMENT: The commenter suggests that the Board add a billing accuracy standard for all utilities, whereby each utility correct and re-bill erroneous bills for fewer than five per 1,000 of its customers and report its performance semi-annually to the Board and Rate Counsel. (NJRC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues, such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues relating to billing accuracy, if deemed necessary and/or beneficial in the future. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's proposal. It could also include an evaluation of what the most appropriate metric would be, what information should be included in the reports, the layout of the reports, and the frequency of the reports. The Board welcomes the commenters' participation in this and other future rulemakings.

N.J.A.C. 14:3-7.5 Budget Billing Plans for Residential Accounts

147. COMMENT: The commenter recommends that the provisions at N.J.A.C. 14:3-7.5(c) and (h), which require utilities to offer budget billing plans for residential gas and electric WTP customers, should be modified to also apply to water and wastewater residential customers. The commenter also recommends that for municipalities in which the primary language of 10 percent or more of the population is a language other than English, that the Board require utilities to provide bill inserts and bill messages in both that non-English language and English. (NJRC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues such as those raised by the commenter, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues, if deemed necessary and/or beneficial in the future. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's proposal. It could also include an evaluation of what the best trigger would be for when the non-English language should be included within the bill inserts and bill messages. The Board welcomes the commenters' participation in this and other future rulemakings.

N.J.A.C. 14:3-7.6 Disputes as to Bills

148. COMMENT: The commenter suggests that a utility promptly respond to customer disputes with reasons for its position, in writing, that utilities provide relevant documents relating to the dispute to the customer, that Board staff maintain a file related to each dispute, that customers have the right to review and copy all information received by the Board in connection with the filed dispute, with a free copy made available to low-income customers and legal services clients, and recommends that language be added to the regulations allowing the

Division of Customer Assistance to determine what amount of a customer's disputed balance is owed pending resolution of the dispute. (LSNJ)

RESPONSE: The Board believes that the current rules and practices allow for adequate communication between the customer and utility as well as with Board staff. When a customer disputes a bill and files a complaint with the Board, Board staff initiates an investigation. This investigation includes requesting information that Board staff deems relevant from the utility and from the customer. Upon request, Board staff will provide copies of this information to the customer. N.J.A.C. 14:3-7.6(c) provides that a utility may not shut off a customer while the investigation is pending with the Board. Therefore, the customer does not need to pay any of the amount the customer has identified as in-dispute while the investigation is pending.

149. COMMENT: The commenter states the intent of N.J.A.C. 14:3-7.6 is to allow time for resolving disputed charges before any discontinuance for nonpayment. However, the sequencing and timeline of events is confusing in several respects. Most significantly, although it appears that the customer must first lodge a dispute with the utility before requesting an investigation by the Board if the utility and the customer do not consensually resolve the dispute, and the utility has no deadline to respond directly to the customer's dispute, the customer's deadline to request the Board investigation is, nonetheless, five days after the customer first lodged the dispute with the utility and the utility is not required to inform the customer of their right to request a Board investigation until after "the utility and the customer do not resolve the dispute." This means that the customer may lose the opportunity to request a Board investigation if, as would seem reasonable to most customers, the customer awaits a response from the utility (an entity with which the customer has a relationship) before the customer seeks to involve a State government agency (an entity with which the customer likely has no relationship) in the dispute. Few, if any, customers without the advice of counsel will think to preemptively request a Board investigation while awaiting a response from the utility. To resolve these problems, the rule should be revised to ensure that, when a customer has notified the utility that the customer disputes a charge and the customer has paid all undisputed charges, the utility shall not discontinue service:

(1) while the utility is considering the dispute;

(2) if the utility determines that the charge is valid, sooner than the sixth day after the utility informs the customer in writing of its determination and the reasons for it; and

(3) if the customer makes a request to the Board to investigate the disputed charge within five business days after the utility provides the customer with its written determination, at any time before Board staff notifies the utility and the customer that the dispute has been resolved. (NRDC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues, such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues, if deemed necessary and/or beneficial in the future. This information could include, but not be limited to, gathering positions regarding how much time the customer should have to make a request to the Board for an investigation of the disputed charge; and what action should be used as the starting point for measuring the allowed time. The Board welcomes the commenters' participation in this and other future rulemakings.

150. COMMENT: The rule should be revised to require all bills to include critical information regarding the process for disputing a bill, along with relevant contact information (including phone number) for both the utility and the Board. Currently, such information is required only on notices of discontinuation (see N.J.A.C. 14:3-3A.4(h), (i), and (j)). It is important that the customers know when they receive a bill how to address concerns about its accuracy or validity, as soon as possible, rather than calling the dispute process to their attention only when they are on the verge of having their service discontinued. Alternatively, a requirement to include this information on all bills could be added at N.J.A.C. 14:3-7.1, rather than at N.J.A.C. 14:3-7.6. (NRDC)

RESPONSE: The Board believes that the rules adequately protect customers. While the commenter is recommending that the utility provide

utility contact information on their bills, the commenter is not stating that this information is not already included on customer bills. It is the Board's understanding that the utilities currently include a customer service phone number on their bills, and pursuant to N.J.S.A. 48:3-86.d electric and gas public utility bills must contain the phone number and website for filing complaints with the Board through the Division of Customer Assistance. As such, the customer can contact the utilities and the Board to inquire about the process for disputing a bill. Additionally, N.J.A.C. 14:3-7.6(b) provides that if the utility and the customer do not resolve a billing dispute, the utility shall notify the customer that the customer may make a request to the Board for an investigation of the disputed charge that customers can use to file a dispute. The Board declines to require inclusion of information for filing complaints with the Board on water public utility bills because the Board believes it is appropriate for the customer to reach out to the utility first to resolve complaints and then to reach out to the Board if the utility is unable to resolve the complaint. Contacting the utility first can often result in faster resolution of the issue, as the utility has all of the relevant information readily available, whereas Board staff would need to contact the utility to obtain the information. In addition, the customer can also access phone number information by calling directory assistance (411), using a phone directory, reviewing bill inserts or the Customer Bill of Rights, or utilizing the internet.

N.J.A.C. 14:3-7.7 Deferred Payment Agreements

151. COMMENT: The commenter suggests changes to deferred payment arrangement criteria, including no down payments for WTP-eligible customers, requiring utilities to offer longer payment arrangements, take into account a customer's household income and expenses, and offer affordable DPAs with terms of three-to-five years (or longer if necessary), allowing a grace period for late payments and providing customers the opportunity to enter into a second DPA in the event of default, reflecting the customer's current ability to pay, if financial circumstances have changed. (LSNJ)

RESPONSE: The Board believes that current and proposed rules already take into account these factors. Many customers are already afforded what the commenter suggests. Moreover, utilities often offer multiple payment arrangements over the course of a year.

152. COMMENT: Regarding N.J.A.C. 14:3-7.7(a), the commenter states the utility should be required to affirmatively reach out to the customer to offer a DPA at least a certain number of days before the earliest date on which discontinuance may occur. (NRDC)

RESPONSE: The Board believes that the current and proposed rules adequately protect customers. Namely, the customer receives a shut off notice 10 days prior to disconnection and has the opportunity to contact the utility to request a payment arrangement.

153. COMMENT: The rule should be revised to add much greater specificity about what constitutes a "fair and reasonable" DPA, including default rules concerning DPA terms. For example, New York's DPA regulation provides that monthly payments shall be as low as \$10.00 "when the customer or applicant demonstrates financial need for such terms." The Board should add a similar provision in this State (perhaps setting a minimum of \$5.00 per month) and should further specify that a customer eligible for the WTP automatically qualifies for the lowest monthly payment amount. This would reduce some of the inherent subjectivity in negotiating DPAs, which currently puts customers at a severe disadvantage because the utility has a threat of discontinuance as "leverage" in a DPA negotiation and many customers will not be comfortable pushing back against a utility's suggested monthly payment amount. (NRDC)

RESPONSE: The Board believes that the current and proposed rules adequately protect customers and offer more flexibility in setting up a payment arrangement for a customer. The Board notes that each customer's arrearage and financial situation is unique.

154. COMMENT: N.J.A.C. 14:3-7.7(b) should explicitly define a process for the Board to resolve disputes if a utility and the customer cannot agree on a repayment term. It should also require the utility, when first offering a DPA, to notify customers of their rights to invoke that dispute resolution provision. It should require the utility to provide its reasons, in writing, if the utility and the customer cannot reach an agreement on their own, and it should prohibit discontinuation of service

while any dispute over the repayment terms is pending with the Board. This would be consistent with the Board's approach to a similar situation pursuant to N.J.A.C. 14:3-3A.5(b) and (e), which state that the Board shall resolve disputes regarding the appropriate amount of a good faith payment to maintain service, or a down-payment to restore service for a WTP-eligible customer; and with N.J.A.C. 14:3-3A.5(e), which states that a utility may not discontinue a WTP-eligible customer during the pendency of any dispute regarding the customer's ability to make a good-faith payment. (NRDC)

RESPONSE: The Board finds no evidence of the current customer complaint processes needing adjustment, and the existing rules provide Board staff and the utilities the flexibility to resolve complaints on a case-by-case basis.

155. COMMENT: The maximum down-payment amount at N.J.A.C. 14:3-7.7 (25 percent) will put an affordable DPA out of reach for those who need one the most. This maximum should be substantially reduced, for example, to 10 percent (with a dollar amount limit, whichever is lower). Moreover, the rule should prohibit utilities from requiring WTP eligible customers to make a down-payment. (NRDC)

RESPONSE: The Board declines to make the proposed changes. The Board believes that the current and proposed rules protect customers, including WTP participants, and offer more flexibility in setting up a payment arrangement for a customer based on specific facts, such as the customer's unique arrearage. Board staff's experience indicates that the utilities have been using this flexibility in setting DPAs with down-payments of less than 25 percent when necessary to make them more affordable for customers to maintain and complete.

156. COMMENT: The commenter proposed modifying the rule to: 1) allow a grace period for a late payment on a DPA; and 2) require utilities to offer a new DPA if the customer defaults, with a repayment term that is at least, as long as the first agreement and is based on the customer's financial circumstances at the time of default. (NRDC)

RESPONSE: The Board believes that the current and proposed rules protect customers and offer more flexibility in setting up a payment arrangement for a customer based on specific facts such as the customer's unique arrearage. As such, the Board declines to make the proposed modifications.

157. COMMENT: Regarding N.J.A.C. 14:3-7.7(a), the commenter recommends a modification to the definition of a utility's "good faith effort" in providing customers an opportunity to enter into a fair and reasonable DPA. Namely, for municipalities in which the primary language of 10 percent or more of the population is a language other than English, the commenter proposes that the Board require utilities, in exercising their good faith efforts, to provide communications to such customers regarding deferred payment plans in both that non-English language and English. The commenter also recommends that each utility track on a monthly basis the total number of deferred payment arrangements entered into, the average length of each, the average amount of arrearage for each, the average amount of a monthly payment and the number successfully paid off, and report on a semi-annual basis to the Board and Rate Counsel its performance on these DPA criteria. (NJRC)

RESPONSE: The Board reviews customer protection issues on an ongoing basis and the Board may consider additional rulemaking to address customer protection issues, such as this one, wherein the Board can gather the necessary information and positions of the various stakeholders to appropriately consider these issues. This information could include, but not be limited to, gathering positions regarding the benefit versus the cost of the commenter's suggestion. It could also include an evaluation of what the best trigger would be for when the non-English language should be provided with the communications regarding deferred payment plans, what information should be included in the deferred payment report, the layout of the report, and how often these reports should be filed. The Board welcomes the commenters' participation in this and other future rulemakings.

158. COMMENT: The commenter supports the removal of definitions no longer used in the rules and updated references to the Internal Revenue Code. (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

N.J.A.C. 14:3-8.1 Scope and Applicability

159. COMMENT: The commenter states that N.J.A.C. 14:3-8.1(a) conflicts with language at subsection (d) and with N.J.A.C. 14:3-8.5(a) and (e). Namely, the commenter notes that based on the language of the provisions, Subchapter 8 does not govern the quantification of deposits, but does control when a utility can require a deposit and the amounts and timing of a refund. The commenter states that it is difficult to understand how the rules could quantify refunds, without also quantifying the amount of the initial deposit and feels that the conflicting provisions should be reconciled and clarified. The commenter suggests that the rules be amended to require utilities to file tariffs specifying how they determine the amounts of deposits and non-refundable contributions, as well as the amounts and timing of refunds of deposits. (NJRC)

RESPONSE: The Board does not believe these sections are in conflict. As indicated throughout the subchapter, the formula to determine the amount an applicant will have to pay is a suggested formula. The rules are not designed to provide a specific dollar amount that an applicant for extension must pay because the amount is to be determined based on the actual cost of the extension, which can vary significantly based on various factors, such as the distance of the structure to be served from the utility's facilities. Instead, the rules provide a suggested formula that can be used to determine the amount of the deposit based on the cost of the specific extension. Further, the rules are not designed to provide a specific dollar amount for refunds. Rather, the rules provide a formula for determining the amount of the refund(s) that is based on the amount of the deposit collected.

N.J.A.C. 14:3-8.5 General Provisions Regarding Costs of Extensions

160. COMMENT: N.J.A.C. 14:3-8.5(a) appears to allow a utility to negotiate deposits and contributions with applicants, without reference to any standards. This is unfair to ratepayers who may be required to subsidize some applicants, and especially large developers who are able to negotiate a favorable deposit amount with a utility. The commenter proposes language changes at N.J.A.C. 14:3-8.1, 8.5, 8.9, 8.10, and 8.11 to establish guidelines for determining whether a utility should require a deposit from an applicant for an extension, and if so, the amount of the deposit, as well as make the main extension formula mandatory, rather than suggested. (NJRC)

RESPONSE: The Board believes that the suggested formula is appropriate and provides adequate assurance that the extension will furnish sufficient business to justify the construction and maintenance of the same. If a utility charges less than provided for under the suggested formula for an extension and the extension becomes unprofitable, the parties to the utility's future rate proceedings have the ability to question the prudence of the utility's decision and the inclusion of associated costs in the utility's rate base. This discourages the utility from charging less than the suggested formula. The utility is discouraged from charging more than the suggested formula because the applicant for the extension can ask the Board to apply the suggested formula. The suggested nature of the formula allows the utility and the applicant to find other alternatives that work for both parties, such as having the applicant provide a letter of credit, rather than a deposit.

N.J.A.C. 14:3-8.10 Suggested Formula for Allocating Extension Costs--Multi-unit or Non-residential Development

161. COMMENT: The commenter is unclear if Board formulas for service extension continue to apply to rate deregulated telecommunications service. (NJRC)

RESPONSE: Yes, they would apply. The rates of local exchange telecommunications providers have not been deregulated; however, many have been granted competitive status, which does not eliminate carrier of last resort obligations.

162. COMMENT: The commenter wants the Board to re-examine the "10 times" multiplier for gas, electric, and telecommunications utilities and consider whether it provides adequate assurance that ratepayers will not be called upon to subsidize uneconomic extensions of service. The commenter points out that prior to March 2005, the multiplier for electric and gas utilities was "5 times." In 2005, the multiplier was increased from five times to 10 times in areas designated for growth, in order to encourage developers to build in designated growth areas. In December 2015, the

Board adopted new rules that eliminated the distinction between "growth and non-growth" areas and reduced the multiplier to 2.5 for water and wastewater utilities, but retained the 10 times multiplier for electric, gas, and telecommunications utilities. The commenter believes that since the 10 times multiplier was intended to incentivize extensions of utility infrastructure, rather than protecting ratepayers from paying unreasonable subsidies, it appears inconsistent with the goals of the 2019 Energy Master Plan, when applied to gas utilities. (NJRC)

RESPONSE: Pursuant to N.J.S.A. 48:2-27, the Board may require any public utility to establish, construct, maintain, and operate any reasonable extension of its existing facilities where, in the judgment of the Board, the extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same. The gas, electric, and telecommunications main and service extension formulas were designed to be fair to the customers requesting the extension, the utility company, and the remaining utility customers. They are designed so that if an applicant requests an extension to serve a multi-unit or non-residential development, the applicant can connect to the system after paying a deposit that is based on the cost of the extension. This deposit is refunded as customers begin receiving utility service based on the 10 times formula. The applicant's deposit is established so that the applicant assumes the risk that the project may not be cost effective. The Board believes that this formula provides adequate assurance that the extension will furnish sufficient business to justify the construction and maintenance of the same and that ratepayers will not be called upon to subsidize uneconomic extensions of service. The Board notes that while the rules prior to March 2005 utilized lower multipliers, those rules also included provisions that are not in the current rules, whereby gas and electric extensions would be provided free of charge if they did not exceed certain length provisions. In addition, in some cases, the Board approved gas and electric tariffs that provided for higher multipliers than those used in the suggested formulas of the rules at that time. Therefore, a comparison between the five times multiplier and the 10 times multiplier is not an apples-to-apples comparison. In addition, the incentive that came from the 10 times multiplier during the 2005-2015 period came from it being compared to extensions to serve areas not designated for growth where the applicant was required to pay the full cost of the extension. Therefore, the 10 times multiplier was not designed to encourage development and main extensions; it was designed to encourage growth to occur in areas designated for growth versus in areas not designated for growth. The Board believes that 10 is the appropriate multiplier to use in the formula, not based on its being used as an incentive as claimed by the commenter, but because the Board believes it is the appropriate measure of whether the extension will furnish sufficient business to justify the construction and maintenance of the same.

N.J.A.C. 14:3-8.11 Suggested Formula for Allocating Extension Costs--Single Residential Customer

163. COMMENT: The commenter is unclear if Board formulas for service extension continue to apply to rate deregulated telecommunications service. (NJRC)

RESPONSE: Yes, they continue to apply to telecommunications.

164. COMMENT: The commenter wants the Board to re-examine the "10 times" multiplier for gas, electric, and telecommunications utilities and consider whether it provides adequate assurance that ratepayers will not be called upon to subsidize uneconomic extensions of service. The commenter points out that prior to March 2005, the multiplier for electric and gas utilities was "5 times." In 2005, the multiplier was increased from five times to 10 times in areas designated for growth in order to encourage developers to build in designated growth areas. In December 2015, the Board adopted new rules that eliminated the distinction between "growth and non-growth" areas and reduced the multiplier to 2.5 times for water and wastewater utilities, but retained the 10 times multiplier for electric, gas, and telecommunications utilities. The commenter believes that since the 10 times multiplier was intended to incentivize extensions of utility infrastructure, rather than protecting ratepayers from paying unreasonable subsidies, it appears inconsistent with the goals of the 2019 Energy Master Plan when applied to gas utilities. (NJRC)

RESPONSE: Pursuant to N.J.S.A. 48:2-27, the Board may require any public utility to establish, construct, maintain, and operate any reasonable

extension of its existing facilities where, in the judgment of the Board, the extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same. The gas, electric, and telecommunications main and service extension formulas were designed to be fair to the customers requesting the extension, the utility company, and the remaining utility customers. They are designed so that if an applicant requests an extension to serve an individual home and the expected annual distribution revenue will pay for the extension over a 10-year period, the applicant can connect to the system without an upfront cost. However, if the expected annual distribution revenue will not pay for the cost of the extension, the applicant will pay a refundable deposit for the extension so that other ratepayers do not pay for the extension and assume the risk that the extension will become cost-effective in the future. The Board believes that this formula provides adequate assurance that the extension will furnish sufficient business to justify the construction and maintenance of the same and that ratepayers will not be called upon to subsidize uneconomic extensions of service. The Board notes that while the rules prior to March 2005 utilized lower multipliers, those rules also included provisions that are not in the current rules, whereby gas and electric extensions would be provided free of charge if they did not exceed certain length provisions. In addition, in some cases, the Board approved gas and electric tariffs that provided for higher multipliers than those used in the suggested formulas of the rules at that time. Therefore, a comparison between the five times multiplier and the 10 times multiplier is not an apples-to-apples comparison. In addition, the incentive that came from the 10 times multiplier during the 2005-2015 period came from it being compared to extensions to serve areas not designated for growth where the applicant was required to pay the full cost of the extension. Therefore, the 10 times multiplier was not designed to encourage development and main extensions; it was designed to encourage growth to occur in areas designated for growth versus in areas not designated for growth. The Board believes that 10 is the appropriate multiplier to use in the formula, not based on its being used as an incentive as claimed by the commenter, but because the Board believes it is the appropriate measure of whether the extension will furnish sufficient business to justify the construction and maintenance of the same.

N.J.A.C. 14:3-12 Utility Management Audits

165. COMMENT: The commenter recommends that the Board institute penalties for utilities failing to comply with the information requests of auditors. The commenter suggests that the Board consider an adjustment to the return on equity or an ongoing monetary penalty, such as a \$100.00 penalty for each question and each day the utility remains in violation. (NJRC)

RESPONSE: The Board does not believe that a fixed financial penalty is appropriate. The Board can address situations of non-cooperation with auditors directly with the utility through Board action.

N.J.A.C. 14:3-13.1 Scope

166. COMMENT: The commenter agrees with the Board's retaining of existing provisions and the "one way" interest for Periodic Basic Gas Supply Service (BGSS) pricing clauses, Purchased Water Adjustment Clauses (PWACs), and Purchased Wastewater Treatment Adjustment Clauses (PSTACs). (NJRC)

RESPONSE: The Board thanks the commenter for its comment.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq. requires 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 rules readopted with amendments and a repeal 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, the rules do not exceed the standards or requirements imposed by Federal law and are not promulgated to comply with a Federal requirement.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:3.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

14:3-1.1 Definitions

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

"Attempted cyber intrusion" means an unsuccessful attempt to commit a cyber intrusion:

1. By actions determined to be intentionally malicious;
2. Directed specifically at a utility computer system;
3. Persistent or otherwise determined to specifically target a utility computer system;
4. If successful, would have resulted in a potential misoperation of an industrial control system (ICS) or would have resulted in a direct exposure of data protected pursuant to N.J.S.A. 56:8-163; and
5. That is not the result of normal operations, unanticipated effects of a change made to a system, failure of a component, or other actions that are reasonably understood to be non-malicious or unintentional.

...
 "Class A water utility" means a public utility that meets the definition of "class A water utility" in the National Association of Regulatory Utility Commissioners' (NARUC) 2007 "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities," incorporated herein by reference, as amended or supplemented, available at <https://maxxwww.naruc.org/forms/store/ProductFormPublic/regulations-to-govern-the-preservation-of-records>.

"Corporation stop" means the fitting inserted in the distribution main to which the service pipe is attached. It is used for shutting off the water in case of repairs to the service pipe.

"Curb stop" means the fitting attached to the service pipe at the curb, for turning on and shutting off water in emergencies or for purposes of repair.

...
 "Cyber attack" means an attempt to gain unauthorized access by bypassing or defeating the access controls of the computer, network, or system, with the intent to damage, destroy, modify, or otherwise harm a computer, network, or system.

"Cyber breach" means a data breach or cyber attack, confirmed by the utility company, in which sensitive, confidential, or otherwise protected information is accessed, disclosed, or modified in an unauthorized manner.

"Cyber intrusion" means a successful, intentional, malicious bypass, or compromise of one or more security controls of a utility computer system resulting in:

1. A breach or degradation of the confidentiality, integrity, or availability of the system;
2. An otherwise-authorized user exceeding authorized levels of access; or
3. Malicious exposure of data protected pursuant to N.J.S.A. 56:8-163.

...
 "Normal business hours" means 9:00 A.M. to 5:00 P.M. weekdays, except for days upon which the Board of Public Utilities is closed for business, including, but not limited to, New Jersey State holidays. A list of New Jersey State holidays can be obtained at <https://www.state.nj.us/nj/about/facts/holidays/>.

...
 "Utility computer system" means any combination of hardware, software, and related services, including industrial control systems (ICS) that could affect a New Jersey utility consumer or system that stores information related to New Jersey utility consumers and is protected pursuant to N.J.S.A. 56:8-163.

SUBCHAPTER 2. PLANT

- 14:3-2.1 Plant construction
 (a)-(c) (No change.)

(d) When an extension, as defined at N.J.A.C. 14:3-8.2, is constructed underground, the responsibility for construction of the portion of the extension located on the property to be served shall be as follows:

1.-2. (No change.)

3. For an extension of wastewater service to a premise served by a water distribution system, the utility shall furnish and install a water meter on which to base the amount of usage for wastewater service;

4. For an extension of wastewater service to a premise that is served by a well, the utility shall make a reasonable effort to install a water meter on said well for purposes of determining wastewater service based on the premise's water consumption. However, if the utility determines that it is not feasible or practical to install a water meter on the well, the wastewater service billing shall be based upon a flat rate;

Recodify existing 3.-4. as 5.-6. (No change in text.)

(e) (No change.)

(f) Once an underground extension has been constructed, the ownership and maintenance of the portion of the extension that is located on the property to be served shall be as follows:

1. (No change.)

2. For an extension of water or wastewater treatment service, as defined at N.J.A.C. 14:9-1.2, the applicant for the extension shall own and maintain the entire extension, except that the utility shall own and maintain:

i.-ii. (No change.)

iii. Any of the following that are located on the roadside utility right-of-way of the property:

(1) (No change in text.)

(2) A fire hydrant, if the municipality agrees to add the hydrant to its inventory of public fire hydrants. If the municipality does not agree, the applicant remains the owner of the hydrant, responsible for paying the Board-approved tariff rates for private fire protection service to the utility;

(3) Any piping, branches, or other infrastructure that will serve structures or properties other than those of the applicant for an extension, either at the time of application or in the foreseeable future; and/or

(4) Corporation stop and curb stop, if feasible.

3.-4. (No change.)

14:3-2.2 Inspection of work performed by contractors

To the extent necessary to ensure compliance with safe practices, any construction work performed for a utility by contractors shall be inspected by a qualified representative of the utility before being placed in active service.

14:3-2.3 Equipment on utility poles

(a) Each utility owning poles shall ensure that any equipment or facilities placed on the poles, including any wire serving a fire alarm, electric distribution or transmission system, light rail, telecommunications, or cable television system; or any other facilities, private or otherwise, are located and attached in accordance with standard industry practice.

(b)-(c) (No change.)

14:3-2.5 Identification of utility equipment

(a)-(g) (No change.)

(h) In the case of structures carrying or supporting overhead wires, where there is a double line of such structures, one on each side of the track, such marks need be affixed to but one line of such structures.

SUBCHAPTER 3. SERVICE

14:3-3.2 Customer applications for service

(a) Applications by a customer for the establishment of service may be made at the utility's office either in person, by regular mail or through the utility's website, facsimile transmission, electronic mail, where available, or by telephone. If the utility requires a written application, the application may be subsequently submitted to the customer for signature.

(b)-(h) (No change.)

14:3-3.3 Providing information to customers

(a)-(c) (No change.)

(d) Each utility shall supply its customers with information on the furnishing and performance of service in a manner that tends to conserve

energy resources and water resources and preserve the quality of the environment, which shall include, but not be limited to, the duty to inform customers:

1.-3. (No change.)

4. That the information shall be distributed to the public by the following means:

i. Extensive advertising by public media, including newspapers, periodicals, television, radio, and social media;

ii.-iii. (No change.)

5. (No change.)

(e) (No change.)

14:3-3.4 Deposits for service

(a) (No change.)

(b) The amount of any deposit required or increased pursuant to this section shall meet all of the following requirements:

1. (No change.)

2. The amount of a deposit shall be calculated at two times the average monthly bill for the previous 12 months; and

3. (No change.)

(c) (No change.)

(d) A utility may require an existing customer to furnish a deposit or increase their existing deposit if the customer fails to pay a bill within 30 days after the due date printed on the bill. The deposit required shall be in an amount sufficient to secure the payment of future bills.

(e)-(j) (No change.)

14:3-3.6 Access to customer's premises

(a) The utility or its designated contractor shall have the right of reasonable access to the customer's premises, and to all property on the customer's premises, which is furnished by the utility, at all reasonable times for the purpose of inspection of customer's premises incident to the rendering of service including reading meters; inspecting, testing, repairing, or conducting markouts, either itself or through its contractor designated to perform said markouts, in compliance with the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., and N.J.A.C. 14:2, also known as the "One-Call rules," of its facilities used in connection with supplying the service; or the removal of its property.

(b)-(c) (No change.)

14:3-3.7 Interruptions of service

(a)-(b) (No change.)

(c) Telecommunications utilities shall not be subject to (d), (e), and (f) below, but shall instead comply with the service interruption provisions in the Board's telephone rules at N.J.A.C. 14:10-1A.11.

(d) (No change.)

(e) Two-hour interruptions. In addition to the reporting required at (d) above, if a service interruption meets one or more of the following criteria, the utility shall report the interruption to the Board no later than 30 minutes from the time that the utility becomes aware that service has been interrupted for two hours:

1.-2. (No change.)

3. Gas service is interrupted for two hours or more to 100 customers or more;

4. A gas service incident that could cause concern because of coverage by the news media; and/or

5. (No change in text.)

(f) (No change.)

(g) The utility shall promptly follow up the reporting required at (d) and/or (e) above with a detailed written report that includes all pertinent facts, including the cause of the interruption, the number and locations of customers affected, the number of critical customers affected, the number of customers relying on life sustaining/supporting equipment affected, the duration of the interruption, and utility actions to correct the interruption and to minimize and/or remedy its effects.

(h)-(i) (No change.)

(j) A utility shall perform all reporting required pursuant to this section using the forms and procedures prescribed by Board staff, which shall be posted on the Board's website at <https://www.nj.gov/bpu/about/divisions/reliability>.

(k)-(l) (No change.)

SUBCHAPTER 3A. DISCONTINUANCE AND RESTORATION OF SERVICE

14:3-3A.2 Discontinuance for nonpayment

(a) Except for residential telephone service that is covered at N.J.A.C. 14:3-3A.8, and subject to the limits below in this section, a public utility may discontinue service for nonpayment only if one or both of the following criteria are met, and shall not discontinue service for nonpayment for any other reason:

1. The customer's arrearage is more than \$200.00; and/or
2. (No change.)

(b)-(c) (No change.)

(d) A utility may discontinue a customer's service for nonpayment of bills rendered only after the utility has completed all of the following steps:

- 1.-3. (No change.)

4. After the end of the notice period in the notice of discontinuance, but before discontinuance of residential service, the electric, gas, water, or wastewater utility representative shall personally notify an adult occupant of the premises, or leave a sealed note in the event that no adult is on the premises. The note shall include information as to how the customer's service may be reconnected. This notice shall be in addition to all other notice required pursuant to this subchapter; and

5. (No change.)

(e) A utility shall not discontinue a customer's service for nonpayment under the following circumstances:

1. Whenever the high temperature is forecast to be 32 degrees Fahrenheit or below during the next 24 hours, electric, gas, water, and wastewater utilities shall not, within any portion of their service territories, disconnect residential service for nonpayment, failure to pay a cash security deposit or guarantee, or failure to comply with the terms of a deferred payment plan. This limit applies to all residential customers, including those eligible for or enrolled in the Winter Termination Program at N.J.A.C. 14:3-3A.5;

2. If a customer is eligible for the Winter Termination Program pursuant to N.J.A.C. 14:3-3A.5, electric, gas, water, and wastewater utilities shall not discontinue residential service to the customer from November 15 through March 15, except as provided pursuant to N.J.A.C. 14:3-3A.5;

3. Whenever the high temperature is forecast to be 90 degrees Fahrenheit or more at any time during the following 48 hours, electric, gas, water, and wastewater utilities shall not discontinue residential service to a customer for reasons of nonpayment, failure to pay a cash security deposit or guarantee, or failure to comply with a deferred payment agreement;

- 4.-5. (No change.)

(f)-(g) (No change.)

(h) Nothing in this section shall relieve the customer of any financial obligation to the electric, gas, water, or wastewater utility providing the service.

- (i) (No change.)

(j) The Board may extend the 90-day period at (i) above for good cause. The customer shall request such an extension from Board staff in writing. The request shall be accompanied by an updated document from a licensed medical professional that meets the requirements at (i)2 above. Pending the Board staff's review of the request for extension, utility service shall not be discontinued.

- (k)-(l) (No change.)

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

- (a) (No change.)

(b) Before sending a notice of discontinuance to the customer for nonpayment of an outstanding past due bill, a utility shall have allowed the customer an initial period of at least 20 days to pay the bill after the original postmark date of the outstanding bill or electronic transmission date for customers on electronic billing, except for a water utility customer with fire protection or multi-use service pursuant to N.J.A.C. 14:3-3A.4(j). Each notice of discontinuance shall meet all of the following criteria:

- 1.-2. (No change.)

3. The notice shall be postmarked no earlier than 20 days after the original postmark date of the outstanding bill. In the absence of a postmark for the outstanding past due bill, the burden of proving the original mailing date of the bill shall be upon the utility.

(c)-(e) (No change.)

(f) During the heating season, all notices of discontinuance of residential electric, gas, water, and wastewater utility services shall be accompanied by a Winter Termination Program fact sheet, printed in both English and Spanish, setting forth all terms and conditions of the Winter Termination Program. Each electric, gas, water, and wastewater utility shall submit drafts of their proposed fact sheets to Board staff no later than October 1 of each year, for approval for use during the upcoming heating season.

(g) If service is being discontinued both for nonpayment and for one or more of the reasons set forth at N.J.A.C. 14:3-3A.1(a)3 and/or 4)***3A.1(a)1, 2, and 5***, the utility may provide notice *[under]* ***pursuant to*** N.J.A.C. 14:3-3A.1(b))***3A.1(d)*** rather than *[under]* ***pursuant to*** this section, and immediate payment of accounts may be required.

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

(a)-(c) (No change.)

(d) Electric, gas, water, and wastewater utilities shall solicit information from their residential customers quarterly, at a minimum, in order to determine the presence of any life-sustaining equipment on the customer's premises. This subsection does not apply to telecommunications public utilities.

(e)-(g) (No change.)

(h) On all notices of discontinuance to residential customers, from all public utilities, there shall be included:

1. A statement that the utility is subject to the jurisdiction of the New Jersey Board of Public Utilities. The statement shall include the address and the following telephone numbers for the Board: (609) 341-9188 and 1-(800)-624-0241 (toll free);

- 2.-3. (No change.)

(i) (No change.)

(j) The statements required to be included on notices of discontinuance of electric and gas customers pursuant to *(g) and]* (h) ***and (i)*** above shall be printed on the back of the notice under the headline (in boldface) "STATEMENT OF CUSTOMER'S RIGHTS." The headline shall be printed in type no less than one-half inch in height (36 points). The individual statements shall be printed in type no less than 1/6 inch in height (12 points). No other matter shall be printed upon the back of the notice. On the front of the notice shall appear a statement in boldface type, indicating that important information regarding the customer's rights is found on the back of the notice.

(k) (No change.)

14:3-3A.5 Winter Termination Program

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

- 1.-8. (No change.)

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

(c) All residential electric, gas, water, and wastewater customers who are eligible for and seek the protection of the Winter Termination Program shall enroll in a budget billing plan on an annual basis.

(d) All residential electric, gas, water, and wastewater customers who are eligible for and seek the protection of the Winter Termination Program shall make good-faith payments during the heating season, if they have the ability to do so. Said payments shall be equal to the amount that the customer would be required to pay under a payment plan, except that the utility shall accept a lesser amount from those customers who do not have the ability to pay.

(e) (No change.)

(f) If a customer receives financial assistance, such as Home Energy Assistance Program (HEAP) heating benefits, or low income water assistance (LIWAP), the customer shall forward all of the benefits to their electric, gas, water, or wastewater utility.

(g) During the heating season, a residential electric, gas, water, and wastewater utility shall not request a security deposit or an addition to an existing security deposit from a customer who is eligible for and seeks the protection of the Winter Termination Program.

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

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

1. (No change.)

2. Board staff shall have seven days after receipt of said information to complete an impartial and informal investigation of the matter. In the event that a utility comes forward with sufficient credible evidence that shows that the meters, pipes, wires, conduits, or attachments through which a customer is thus being furnished with service have been tampered with, Board staff shall immediately notify the customer and the burden shall shift to the customer to come forward with sufficient evidence to rebut the charges of the utility. Failure to do so will result in a finding that tampering did occur for the purpose of obtaining the utility service without payment and that the customer is responsible for the tampering;

3. Upon a finding by Board staff that tampering did occur, the utility shall give written notification to the customer, by certified mail, return receipt requested; and to the local public welfare agency and the local municipal health agency, by regular mail, as to the date upon which service to the customer shall be terminated. Said notification shall be made at least seven days prior to the date of the proposed service termination. The utility shall further advise the customer in the written notification that if he or she claims to be dependent on life-sustaining equipment, the customer must comply with the procedures for medical emergencies at N.J.A.C. 14:3-3A.2(i) and (j) within the aforementioned seven-day period. Any customer that wishes to dispute a discontinuance based on a finding that tampering has occurred may file a petition with the Board in accordance with N.J.A.C. 14:1-1.5; and

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

(j) (No change.)

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

(a)-(b) (No change.)

(c) When a landlord-tenant relationship is known to exist, an electric, gas, water, and wastewater public utility, at the landlord's request, shall send written notice to the landlord that a tenant's service is being voluntarily or involuntarily discontinued.

(d) When a landlord-tenant relationship is known to exist, an electric, gas, water, and wastewater public utility, at the landlord's request, shall place the service in the landlord's name if the tenant's service is being voluntarily or involuntarily discontinued.

(e) To participate in this program, the landlord shall complete a form provided by the utility, indicating a choice as specified *[in (a) or (b)]* ***at (c) or (d)*** above.

14:3-3A.7 Notification to municipalities of discontinuance of residential gas or electric service

(a) All electric and gas public utilities shall annually notify all municipalities located within their service area that, upon request, they, and/or any enforcing agency enforcing the Uniform Fire Code (N.J.A.C. 5:70) within the municipality, will be sent a daily list of the residential customer of record and premises located within the municipality at which gas or electric service was discontinued involuntarily on the preceding day.

(b)-(e) (No change.)

14:3-3A.9 Basis for restoration

(a)-(b) (No change.)

(c) If an electric, gas, water, or wastewater utility discontinues service to a customer for nonpayment, and the customer has met all requirements in this section for restoration of service, the utility may require a deposit, but shall not require the deposit prior to service restoration. Instead, the utility shall bill the customer for the deposit, and shall allow the customer at least 20 days after the billing for payment of the deposit, or shall make other reasonable payment arrangements with the customer.

(d) The amount of a deposit required for restoration of service shall be determined in accordance with N.J.A.C. 14:3-3.4.

(e) A residential electric, gas, water, or wastewater customer who has been disconnected, shall have their service reconnected, upon request, if all of the following conditions are met:

1. They can demonstrate that they have applied to one of the following eligible assistance programs: Universal Service Fund, Low Income Home Energy Assistance, Payment Assistance for Gas and Electric, or the Low-Income Household Water Assistance program(s);

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

3. They have made a down payment of up to 25 percent of the outstanding balance consistent with N.J.A.C. 14:3-3A.5(b).

SUBCHAPTER 4. METERS

14:3-4.2 Location of meters

(a) The installation of meters and connections shall be in accordance with N.J.A.C. 14:5, Electric Service, 14:6, Gas Service, and 14:9, Water and Wastewater; and standard practice.

(b)-(c) (No change.)

14:3-4.4 Testing of utility meter testing equipment

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

(e) A utility shall, by January 31st of each year, provide to the Director of the Board's Division of Reliability and Security, the current locations of all meter testing shops that test the meters of the utility's New Jersey customers. All meter testing shops that test meters of New Jersey customers are required to have certifications of testing equipment as described in this section. All out-of-State meter testing shops that begin testing meters of New Jersey customers after December 31, 2021, require prior Board approval. Out-of-State meter shops that test meters of New Jersey customers may be inspected by Board staff at the utility's expense.

14:3-4.5 Meter tests at a customer's request

(a) (No change.)

(b) A report giving results of such tests shall be made to the customer, and a complete record of such tests shall be kept on file at the office of the utility in accordance with N.J.A.C. 14:3-4.7.

(c)-(d) (No change.)

(e) Upon application by any customer to the Board, a Board inspector shall witness the utility's test of the customer's meter. Such test shall be made as soon as practicable after receipt of the application for the test. Board staff shall notify the customer and the utility as to the time and place of such test. All costs associated with the meter test shall be borne by the utility.

14:3-4.6 Adjustment of charges for meter error

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

(f) In cases of a charge to a customer's account pursuant to (d)2 or 3 above, the customer shall be allowed to amortize the payments for a period of time equal to that period of time during which the customer was undercharged. In cases of adjustment to a customer's account that increases a customer's bill, except in cases of theft and tampering, the customer shall be allowed to amortize the payments for a period of time equal to that period of time in which the charges were adjusted. These adjustments shall be calculated for a period not to exceed six years for electric, gas, and water meters subject to testing by a Board approved scientific sampling technique. In cases of adjustment to a customer's account that decreases a customer's bill, the customer's bill shall be credited as soon as reasonably possible.

SUBCHAPTER 5. CONTACTING THE UTILITY

14:3-5.1 Location of offices

(a)-(b) (No change.)

(c) Each utility shall file written notice with the Board of any proposed change in the functions of one or more of these offices at least 14 business days prior to the change being made.

(d)-(f) (No change.)

(g) Each utility shall advise the Board's Division of Customer Assistance at (609) 341-9189 not less than 60 days prior to the relocation of any of its customer call center(s) located in New Jersey. If the utility wishes to relocate a call center outside of New Jersey, the utility shall first demonstrate to Board staff that all customer service representatives at the new location have a thorough understanding of:

1.-2. (No change.)

SUBCHAPTER 6. RECORDS AND REPORTING

14:3-6.1 General provisions for records and reporting

(a)-(b) (No change.)

(c) The following provisions in this chapter require a utility to report to the Board or another entity:

1.-3. (No change.)

4. N.J.A.C. 14:3-4.7 requires reporting to the Board regarding meter testing and results;

5.-6. (No change.)

7. N.J.A.C. 14:3-6.8 requires reporting to the Board regarding the telephone systems operated by the utility;

8. N.J.A.C. 14:3-6.7 requires reporting to the Board regarding suspicious actions relating to utility functions and equipment; and

9. N.J.A.C. 14:3-7.8 requires reporting to tenant-customers, landlords, beneficiaries, and the Board regarding diversions of service.

(d) All reports and records required pursuant to this subchapter shall be provided in the format provided by Board staff or posted on the Board's website at <http://nj.gov/bpu/>, unless otherwise specifically stated in this chapter, or unless format requirements are waived in accordance with N.J.A.C. 14:1-1.2(b).

14:3-6.2 Plant and operating records

(a)-(f) (No change.)

(g) Except for cable television companies, including telecommunications companies that have obtained a system-wide franchise from the Board in accordance with N.J.A.C. 14:18-14, each public utility shall maintain, for each calendar year, records of the number of lots, and the number of residential housing units and nonresidential buildings for which extensions were provided.

14:3-6.3 Financial and operations reports

(a) Every utility shall file with the Board on or before March 31 of each year, or on or before the due date noted on the report form, a summary of its finances and operations for the preceding calendar year. The summary shall be submitted on forms available from the Board's Division of Audits website page found at <https://nj.gov/bpu/about/divisions/audits/> or by calling 609-913-6258, and shall include the emergency utility contact information required pursuant to N.J.A.C. 14:3-5.2(a)3.

(b) Pursuant to N.J.S.A. 48:2-16.3, any public utility that fails to file by March 31 of each year, unless an extension has been granted, is subject

to a penalty of \$5.00 per day thereafter until such report referenced at (a) above is filed.

Recodify existing (b)-(e) as (c)-(f) (No change in text.)

14:3-6.4 Accidents—initial reporting

(a) Each utility shall notify the Board's Division of Reliability and Security of any reportable accident immediately, and in no event later than one hour after the utility learns of the accident.

(b) A reportable accident is an accident that is related to utility equipment or operations, other than a motor vehicle accident that does not create a service interruption, which accident results in one or more of the following circumstances:

1.-3. (No change.)

4. Damage to the property of others amounting to more than \$122,000; and/or

5. (No change.)

(c)-(e) (No change.)

14:3-6.5 Accidents—follow-up reporting

(a) (No change.)

(b) The follow-up accident report shall include basic identifying and descriptive information concerning the accident, its causes and consequences, the extent of damage and/or injuries, if any, and the persons involved. The report shall also include corrective measures that the utility plans or has taken and preventive measures that the utility has taken or will take to avoid similar accidents in the future.

(c)-(d) (No change.)

14:3-6.6 Notice of significant natural gas events

(a) In addition to all other applicable reporting requirements in this subchapter, each gas utility shall notify the Board's Division of Reliability and Security immediately, and in no event later than one hour after the utility learns of any significant natural gas event, as defined at (b) below, occurring in connection with the operation of the gas utility's plant, property, or facilities within the State.

(b)-(c) (No change.)

14:3-6.7 Reporting suspicious acts

(a) Each public utility shall report to the Board within six hours of becoming aware of the occurrence of any of the following incidents:

1.-3. (No change.)

4. Extensive note-taking, or audio recording, regarding any utility facility;

5. Intentional damage to any utility facilities or equipment. This does not include vehicle accidents, automobile collisions with utility poles, damage to underground facilities by an excavator or other third party, which is reported in accordance with other Board rules, or routine vandalism, such as graffiti or vandalism to utility vehicles;

6. Cyber attack resulting in outages and/or service issues, confirmed breach, or confirmed intrusion; and

7. An attempted cyber intrusion of a utility computer system, resulting in slowing, disruption, or other impacting service.

(b) (No change.)

14:3-6.8 Customer service telephone system report

(a) On January 1 and July 1 of each year, each public utility shall provide the Board with the following information concerning the operation of the utility's telephone system for accepting customer complaints and inquiries:

1.-19. (No change.)

20. Whether or not telephone answering machines or devices are used and, if so, the hours in which they are used and the departments in which they are used;

21. If a telephone answering service is used:

i. (No change.)

ii. The information required pursuant to (i) above shall be provided to the Board within 90 days of the effective date of this rule and annually thereafter; and

22. A brief description of the surge capacity available for the utility's telephone system during times of large-scale service interruptions.

(b)-(c) (No change.)

SUBCHAPTER 7. BILLS AND PAYMENTS FOR SERVICE

14:3-7.2 Form of bill for metered service

(a) (No change.)
 (b) Unless a utility has been specifically relieved of so doing by order of the Board, a bill for metered service shall show the following:

1.-9. (No change.)

10. For each electric and gas utility, a statement of all applicable taxes imposed upon and included in the cost of the energy provided to the customer. The following language is suggested as a model statement to be included on the bill: "Under applicable tax law, the State sales and use tax, and corporate business tax are imposed upon the energy which you have used. To obtain the exact amount of tax included in your billing, please contact the utility at the telephone number listed on your bill."

(c)-(d) (No change.)

(e) Rules concerning estimated bills for all customers are as follows:

1.-2. (No change.)

3. When a utility estimates an account for four consecutive billing periods (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the utility shall mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice shall explain the penalty for failure to complete an actual meter reading. After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the utility may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified, and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment.

i. A utility shall not bill a customer using estimated bills for more than 24 months since the last actual reading, unless the utility has used all reasonable means to obtain a meter reading, as described in the paragraph above;

4.-6. (No change.)

(f) (No change.)

14:3-7.4 Method of billing

(a)-(c) (No change.)

(d) A utility offering electronic billing to its customers shall provide the same billing information as required at (a), (b), and (c) above and at N.J.A.C. 14:3-7.3. The utility shall advise those customers who opt to receive electronic billing of their right to also receive a paper bill upon request.

14:3-7.5 Budget billing plans for residential accounts

(a)-(c) (No change.)

(d) The projected monthly budget amount that a customer owes under a budget billing plan shall be determined by the following factors:

1.-2. (No change.)

3. Base rate increases and basic generation service or basic gas supply service charges actually granted by the Board; and

4. Projected changes in the basic generation service or basic gas supply service charges.

(e) The utility shall offer all customers the same budget plan year, which will last 10, 11, or 12 months, except that the budget plan year for all residential customers who seek the protection of the Winter Termination Program shall be 12 months.

(f) (No change.)

(g) For each customer on a budget billing plan, the utility shall "true up," or compare the actual cost of service rendered, as determined by actual meter readings, and the monthly budget amount as follows:

1. (No change.)

2. The comparison shall take into account the customer's usage and any rate increases or decreases that have been granted by the Board, including increases or decreases in the basic generation service or basic gas supply service charges;

3.-5. (No change.)

(h)-(k) (No change.)

14:3-7.8 Diversion of service

(a)-(c) (No change.)

(d) Each utility shall investigate alleged diversions as follows:

1.-3. (No change.)

4. The utility shall investigate the alleged diversion within two months of the receipt of the investigation request. Each diversion investigation shall include a meter test conducted in accordance with N.J.A.C. 14:3-4.5;

5.-12. (No change.)

(e)-(j) (No change.)

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

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:

...

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]* ***pursuant to*** the Internal Revenue Code, 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.-3. (No change.)

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

i.-iv. (No change.)

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

14:3-8.6 Deposits, contributions, and refunds—Internal Revenue Code

(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]* ***pursuant to*** the Internal Revenue Code (TRA-86); and

2. (No change.)

(b) (No change.)

(c) The TRA-86 gross-up factor shall be:

1.-2. (No change.)

3. For a gas or electric regulated entity, calculated using the TRA-86 Gross-up Factor Template posted on the Board's website, <https://www.bpu.state.nj.us/>.

(d)-(f) (No change.)

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]* ***pursuant to*** the Internal Revenue Code as a result of receiving the deposit, as detailed at N.J.A.C. 14:3-8.6;

2.-4. (No change.)

(e)-(h) (No change.)

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]* ***pursuant to*** the Internal Revenue Code, which is addressed at 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.)

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 at 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]* ***pursuant to*** the Internal Revenue Code, which is addressed at N.J.A.C. 14:3-8.6.

(b)-(g) (No change.)

14:3-8.14 (Reserved)

TRANSPORTATION

(a)

DIVISION OF CAPITAL PROGRAM MANAGEMENT DIVISION OF TRANSPORTATION SYSTEMS MANAGEMENT

Notice of Readoption Sponsorship Program

Readoption with Technical Change: N.J.A.C. 16:42

Authority: N.J.S.A. 27:1A-5 and 6 and 27:7-44.18 et seq.

Authorized By: Diane Gutierrez-Scaccetti, Commissioner,
Department of Transportation.

Effective Dates: July 8, 2022, Readoption;
August 15, 2022, Technical Change.

Expiration Date: July 8, 2029.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 16:42 were scheduled to expire on September 8, 2022. The Department of Transportation (Department) has reviewed the rules and determined that they should be readopted with a technical change to update the website of the Office of Management and Budget at the New Jersey Department of the Treasury. The rules are necessary, reasonable, adequate, and responsive for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted with a technical change and shall continue in effect for a seven-year period.

These rules establish guidelines and specifications related to a Departmental program that allows for sponsorship of Department operational activities or other highway-related services or programs, in return for acknowledgment of that sponsorship.

Full text of the technical change follows (additions indicated in **boldface** thus; deletion indicated in brackets [thus]):

SUBCHAPTER 8. AUDIT, RECORDKEEPING, AND RECORD RETENTION

16:42-8.1 Audit requirements

(a) A sponsor under this chapter shall comply with the State of New Jersey single audit policy for recipients of Federal grants, State grants, and State aid defined by the Department of the Treasury, Office of Management and Budget, and the Single Audit Act of 1984 (Federal OMB Circular A-133), incorporated herein by reference, as amended and supplemented, and all requirements as set forth in the agreement. Copies

of these circulars can be obtained from the New Jersey Department of the Treasury, Office of Management and Budget at [<http://www.state.nj.us/infobank/circular/cir0404b.htm>] https://www.nj.gov/infobank/circular/cir1508_omb.pdf or by regular mail from:

New Jersey Department of the Treasury
Office of Management & Budget
PO Box 221
Trenton, NJ 08625-0221

(b)-(g) (No change.)

TREASURY—TAXATION

(b)

DIVISION OF TAXATION

Director's Tax Credit Purchase Program

Adopted New Rules: N.J.A.C. 18:34

Proposed: March 7, 2022, at 54 N.J.R. 410(a).

Adopted: July 20, 2022, by John J. Ficara, Acting Director, Division of Taxation.

Filed: July 20, 2022, as R.2022 d.103, **without change**.

Authority: P.L. 2020, c. 156.

Effective Date: August 15, 2022.

Expiration Date: August 15, 2029.

Summary of Public Comment and Agency Response:

No comments were received.

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 adopted new rules are based upon P.L. 2020, c. 156, which is not subject to Federal requirements or standards. The adopted new rules are not promulgated under the authority of, or to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates Federal standards or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq., does not require a Federal standards analysis for the adopted new rules.

Full text of the adopted new rules follows:

CHAPTER 34

DIRECTOR'S TAX CREDIT PURCHASE PROGRAM

SUBCHAPTER 1. DIRECTOR'S TAX CREDIT PURCHASE PROGRAM

18:34-1.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Department of the Treasury, Division of Taxation, to implement section 89 and paragraph (4) of subsection d at section 77 of the New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156, which authorizes the Director of the Division of Taxation to purchase certain unused tax credits and tax credit transfer certificates. This subchapter establishes the Director's Tax Credit Purchase Program.

18:34-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means section 77 and section 89 at P.L. 2020, c. 156.

"Agreement" means the agreement entered into between the Division of Taxation and a taxpayer that owns tax credits that are purchased by the Division pursuant to this subchapter. Such agreement includes all relevant terms and conditions required by the Act, including relevant remedies in the event that recapture of credits is required.

"Applicant" means a taxpayer possessing an eligible program tax credit.