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Via regular and electronic mail

October 4, 2017

BOARD OF PUBLIC UTILITIES

Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
ATTN: BPU Docket Number: AX17050468  
44 South Clinton Avenue, 3rd Floor, Suite 314  
CN 350  
Trenton, New Jersey 08625  
[Rule.comments@bpu.nj.gov](mailto:Rule.comments@bpu.nj.gov)

OCT 13 2017

MAIL RECEIVED

AX17050468

Re: **PRN 2017-165, BPU Docket Number: AX1750468**  
AARP COMMENTS CONCERNING THE NEW JERSEY BOARD OF PUBLIC UTILITIES' PROPOSED RULES ON THE IMPLEMENTATION OF PROVISIONAL BASE RATES

Dear Secretary Asbury,

On behalf of AARP's 1.3 million New Jersey members please accept these comments concerning PRN 2017-165. AARP is a non-profit, nonpartisan membership organization that believes no one's possibilities should ever be limited by their age and seeks to find new solutions so that more people can live and age as they choose. AARP works to protect all consumers against unreasonable utility rates and to help people save money on their utility bills. Especially in these difficult economic times, we, along with our members, continue to advocate on behalf of families struggling to pay their utility bills. We work to advance regulations and legislation that protects consumers from unfair rate increases, advances consumer protections and shields consumers from harmful cost shifting by utilities.

AARP has reviewed the BPU's PRN 2017-165 concerning the implementation of provisional base rates. AARP reviewed the straw proposal released on April 26, 2017, attended the May 4, 2017 stakeholder meeting at the BPU headquarters in Trenton, and filed comments on May 11, 2017.

AARP believes that a utility's revenue requirement should be based on just and reasonable expenses necessary to provide service and investments that are prudent and used and useful to ratepayers. Rates should be stable, predictable, and understandable, with costs allocated fairly among customers.

Because PRN 2017-165 significantly undermines these essential consumer protections, AARP opposes the proposed rules and urges they be rejected by the Board. It is simply bad public policy to force utility consumers to pay rates that ultimately are not approved only to receive a refund much later.

Case mgmt

All consumers must be able to rely on the availability of safe, affordable, and high-quality services. Home energy costs make up a sizable portion of household budgets. One group particularly vulnerable to rapid increases in energy prices is older consumers. Although they consume approximately as much energy as younger people do, older Americans devote a higher percentage of their total spending to residential energy costs. They spend a greater proportion of their income to heat their homes (this is true even after statistics are adjusted for weather and home size). Low-income older households spend an average of 10 percent of their income on residential energy. However, in about one out of four cases, low-income older households devote 15 percent or more of their income to home energy bills. Too often older adults with low incomes must choose between cutting back on energy expenditures and reducing spending for other necessities, and may thus end up risking their health or comfort.

Rate increases, including interim rate hikes, are very burdensome to customers. A recent New Jersey Department of Human Services report, *Living Below the Line 2017*, finds that nearly six in ten NJ retired elder-only households lack sufficient annual incomes to insulate them against poverty as they age.<sup>1</sup> This report also notes that the “median annual incomes among NJ retired women vary greatly by race and ethnicity. Median income for White women elders (\$18,817) is approximately \$4,300 higher than median income for Black women elders (\$14,521), \$8,930 higher than median income for Hispanic women elders (\$9,883), and \$6,200 higher than median income for Asian women elders (\$12,605)”. 30% of all NJ seniors rely on social security as their sole source of income.

The New Jersey Board of Public Utilities must ensure service affordability for all— all utility rates should reflect the prudent use of ratepayer money and fairly distribute costs and savings among consumers, while taking into account households with lower incomes. The BPU Proposed rules violates this principle.

### **PRN 2017-165 is a Solution in Search of a Problem**

PRN 2017-165 would unnecessarily, and to the detriment of utility ratepayers, facilitate implementation of a utility corporation’s requested rate increase if the case is not concluded within the two 4-month suspension periods (8 months). Based on information compiled by the NJ Division of Rate Counsel, there is no demonstrated need in New Jersey to impose interim rate increases. New Jersey’s regulated utilities do not suffer from extended suspension periods. Attachment 1 demonstrates that of the completed cases in recent years, the longest suspension period was 10 months, and in most the average is just over 7 months.<sup>1</sup>

PRN 2017-165 may also discourage utility companies from entering into settlements, or from acting with alacrity, to bring cases to conclusion.

As a national organization, AARP engages in utility matters around the country. The relatively few states that implement interim rates have documented numerous problems. For example, the Oklahoma Corporation Commission (OCC) recently approved \$8.9 million of a \$92.5 million rate increase request for Oklahoma Gas & Electric, (OGE), in Docket 16-00395 – less than 1/10 of the rate hike initially sought. However, since July, 2016, OG&E has charged ratepayers \$69 million of the total \$92.5 million they sought through interim rates, grossly overcharging 830,000 utility

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<sup>1</sup> The lengthy JCP&L case was continued for the benefit of the utility.

consumers. While OGE is ordered to refund these overpayments, the best refund is no over-charging by the utility in the first place. Refund schemes are also complicated and costly due to problems associated with customers moving out of the service territory, operationalizing the distribution of refunds, etc.

In Michigan, “self-implemented” rates have made it too easy to raise rates, and rendered the Michigan Public Service Commission, (MIPSC), largely an agency issuing refunds. Rates soared and critics blame these self-implemented, provisional rates for much of the problem. For example, on February 1, 2016, Detroit Edison, (DTE), filed a rate increase request, seeking authority to raise its rates in by \$344 million, (see MPSC U-18014). Effective August 1, 2016, DTE “self-implemented” a reduced request of \$245 million. On January 31, 2017, the Commission issued its order in the case; authorizing a rate increase of \$184 million - *53% of the initial request*. The final award was \$61 million less than the rate increase imposed on an interim basis. Yet for six months, DTE’s consumers had been paying these overpriced electricity rates. (The State of Michigan repealed its interim rate or self-implemented rate procedure through legislation signed by Governor Snyder last year.)

### **PRN 2017-165 Creates Windfall Profits for the Utility Industry by Forcing Ratepayers to Loan Money to their Utility Company**

Utility customers should not be used as a bank to make loans to utility corporations. Attachment 2, based on recent petitions filed in New Jersey, demonstrates how New Jersey utilities would financially benefit under an interim rate implementation process, (and to the detriment of their customers), from rate increase requests greatly in excess of amounts likely to be approved. Often these price increase requests are filed with only three or four months of actual data, allowing overly generous estimates of forward-looking revenue requirements. New Jersey’s pattern is consistent with experiences in other states.

PRN 2017-165 fails to balance the interests of utilities and consumers, fails to adequately protect ratepayers and should be rejected. If the Board seeks to adopt regulations implementing provisional or interim rates PRN 2017-165 should be amended to include the following consumer protections, at a minimum, including those suggested by Rate Counsel at the May 4, 2017 stakeholder meeting:

1. Require the utility corporation demonstrate financial hardship, such as downgrade of securities ratings to below-investment grade, bankruptcy filing, or the like.
2. Require the utility seek and receive substantive BPU approval prior to implementing interim rates. The proposed rules amount to a self-determination of the increase, as they can be held up only for formal insufficiency of the notice to the BPU. (Proposed new rule at N.J.A.C. 14:1-5.12(g).)
3. Any utility seeking implementation of provisional rates must file its petition with no less than 6 months of actual data.
4. Establish the interest rate for refunds to ensure that utilities do not profit from interim rates by setting it at a level commensurate with residential customers’ marginal interest cost (i.e. credit card rates). Treasury rates plus 60 basis points, for example, woefully undercompensate customers for their forced overpayments to the utility. (Asymmetric interest for under-changes at T-bills plus a small basis-point adder is fair, however, given that the utility essentially self-imposes the interim increases.) The proposed rule recognizes

the reality that the Board's final order in the subject rate case may include a determination of over recovery by the utility, (proposed new N.J.A.C. 14:1-5.12(f) (3)), and forbids requirement of interest to the utility in the unlikely case of underpayments. (N.J.A.C. 14:1-5.12(h) (1).)

5. Require that refunds must be to the same customers who paid the overcharges to ensure generational equity. Short of identifying specific customers for refunds, requiring refunds to be completed in one calendar month, as proposed, will assist in this direction. (Proposed new N.J.A.C. 14:1-5.12.4(h)).
6. Require that refunds be reviewed and approved by the BPU and issued to customers within 7 days of the Board's final Decision and Order establishing new base rates.
7. Limit scope of interim rates to existing activities, i.e., no major new projects.
8. Require wide notice of proposed interim rates, not limited to items on customer bills but including the level of notification used for filing general rate cases.
9. Require that no utility be permitted to implement provisional rates more than once every two years.
10. Required that interim rate decreases be implemented if it appears the utility is overearning and ratepayers are entitled to a rate decrease.

Few government agencies affect consumers' lives as thoroughly as the Commissions and Boards that regulate utility services. For the reasons state above, AARP urges the Board to reject PRN 2017-165.

Thank you for your careful consideration of AARP's comments. If you have any questions or would like additional information please do not hesitate to contact me at [eliebman@aarp.org](mailto:eliebman@aarp.org).

Thank you for your careful consideration of AARP's comments. If you have any questions or would like additional information please do not hesitate to contact me at [eliebman@aarp.org](mailto:eliebman@aarp.org).

Sincerely,



Evelyn Liebman  
AARP NJ Director of Advocacy

Attachments

Cc: NJ Governor Chris Christie  
NJ BPU President Richard Mroz  
NJ BPU Commissioner Joseph L. Fiordaliso

NJ BPU Commissioner Mary-Anna Holden  
NJ BPU Commissioner Dianne Solomon  
NJ BPU Commissioner Upendra Chivukula  
NJ Division of Rate Counsel Director Stefanie Brand

*AARP is a nonprofit, nonpartisan organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands*

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<sup>i</sup> <http://www.state.nj.us/humanservices/news/reports/doasreports.html>





**ATTACHMENT 1**  
**Utility Base Rate Cases Filed the Last 5 Years**  
**(updated 10/1/17)**

| Utility  | BPU Docket No.                              | Petition Filed   | Increase Requested | As Filed Test Year Actuals/Projected <sup>1</sup> | BPU Approved                           | Approx. No. of months  |
|----------|---|--|--------------------|---|--|------------------------|
| Atlantic | ER17030308                                  | March 30, 2017   | \$70 m             | 5/7   | Pending                                | N/A                    |
|          | ER16030252                                  | March 22, 2016   | \$79 m             | 9/3   | August 24, 2016 \$45 m                 | 5 months               |
|          | ER14030245                                  | March 14, 2014   | \$61.7 m           | 12/0  | August 20, 2014 \$19 m                 | 5 months               |
|          | ER12121071                                  | December 11, 2012  | \$71.5 m           | 9/3   | June 21, 2013 \$25.5 m                 | 6 months               |
| JCP&L    | ER16040383                                  | April 28, 2016   | \$142.1 m          | 6/6   | December 12, 2016 \$80 m               | 8 months               |
|          | ER12111052                                  | November 30, 2012  | \$31.47 m          | 12/0  | March 26, 2015 (\$115 m) Rate decrease | 28 months <sup>2</sup> |
| Rockland | ER16050428                                  | May 13, 2016   | \$9.6 m            | 3/9   | February 22, 2017 \$1.7 m              | 9 months               |
|          | ER13111135                                  | November 27, 2013  | \$19.3 m           | 6/6   | July 23, 2014 \$13 m                   | 8 months               |
| PSE&G    | No Base Rate Case filed in the last 5 years | Must be filed by 11/17 per Settlement of EO13020155/GO13022156 |                    |   |  |                        |

<sup>1</sup> Note – updated actual/forecast test year not shown does not mean TY was not updated

<sup>2</sup> Although the reply briefs were filed by the parties by February 24, 2014, the ALJ closed the record on June 30, 2014 and filed 4 requests for an extension for his initial decision which was filed with the Board on January 8, 2015, almost one year later, *to the benefit of JCP&L*.



|                         |            |                   |                        |                                 |   |           |
|-------------------------|------------|-------------------|------------------------|---------------------------------|---|-----------|
| New Jersey Natural Gas  | GR15111304 | November 13, 2015 | \$147.6 m <sup>3</sup> | 3/9                             | September 28, 2016, \$45m   | 10 months |
| South Jersey Gas        | GR17010071 | January 27, 2017  | \$74.875m              | 3/9<br>9/3 (per 8/31/17 update) | Pending – approximately \$1.7 million added to request 8/31 for new customer service activities | N/A       |
|                         | GR13111137 | November 13, 2013 | \$62.6m <sup>4</sup>   | 3/9                             | September 20, 2014 \$20m  | 10 months |
| Elizabethtown Gas       | GR16090826 | September 1, 2016 | \$19m requested        | 12/12 as of 5/16/17             | Stipulation approved - \$13.3m 6/30/17  | 9 months  |
| NJAWC                   | WR15010035 | January 9, 2015 * | \$66.2 m               | 4/8                             | Sept 11, 2015, \$22m  | 8 months  |
|                         | WR10040260 | April 9, 2010 *   | \$84.7 m               | 5/7                             | Dec 6, 2010, \$39.9 m   | 8 months  |
| Aqua NJ                 | WR11120859 | December 9, 2011  | \$4.2 m                |                                 | April 11, 2012 \$1.75m  | 4 months  |
|                         | WR09121005 | December 18, 2009 | \$7.2 m                |                                 | June 7, 2010. \$4m  | 6 months  |
| Middlesex Water Company | WR13111059 | November 8, 2013  | \$10.6 m               |                                 | June 18, 2014, \$4.248m   | 7 months  |
|                         | WR12010027 | January 10, 2012  | \$11.3 m               |                                 | July 18, 2012, \$8,1m   | 7 months  |
| UWNJ                    | WR15101177 | October 7, 2015   | \$29.4 m               |                                 | April 27, 2016, \$11m   | 6 months  |
|                         | WR13030210 | March 11, 2013    | \$29.9 m               |                                 | Nov 22, 2013, \$11m   | 8 months  |

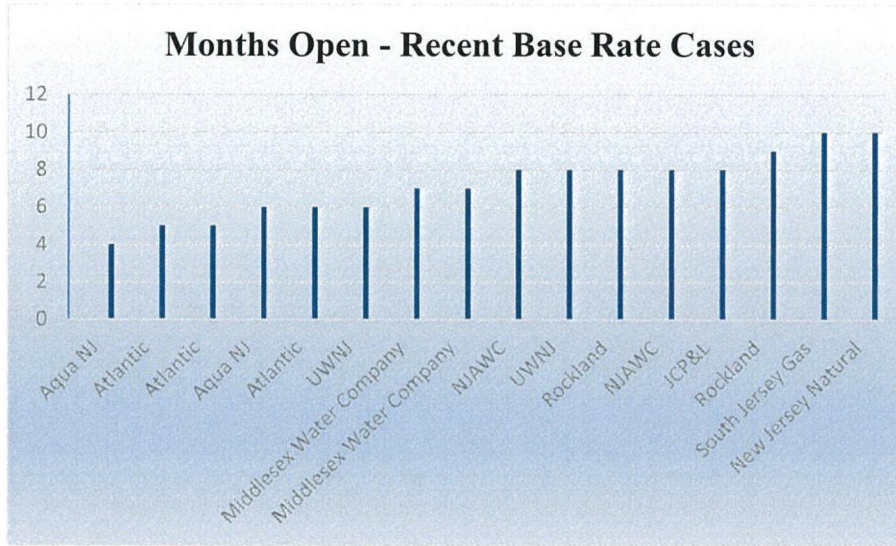
\*Petition sought combined water and wastewater base rate increases.

<sup>3</sup> The 12 + 0 provided a revenue requirement of \$112.8 m.

<sup>4</sup> The 12 + 0 provided a revenue requirement of \$54.4 m.



**ATTACHMENT 2**



**Dollars Approved vs. Dollars Sought, 4 recent NJ cases (\$millions)**

| Year | Utility | \$ Sought | Decision | \$ Difference | Decision as % of \$ Sought | Notes |
|------|---------|-----------|----------|---------------|----------------------------|-------|
| 2012 | JCP&L   | \$31      | \$(115)  | \$146         | 465%                       | a     |
| 2015 | NJNG    | \$148     | \$45     | \$103         | 70%                        | b     |
| 2015 | SJNG    | \$63      | \$20     | \$43          | 68%                        | c     |

- a | This docket lasted over 2 years. During the entire time the utility was overearning.
- b | NJNG reduced its request to an amount >\$100 M more than initially requested when it used actual data.
- c | SJNG reduced its request to \$54.4 M when it used actual data.





BOARD OF PUBLIC UTILITIES

OCT 13 2017

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*By Hand*

October 5, 2017

Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
ATTN: BPU Docket Numbers: AX17050468 & AX1750469  
44 South Clinton Avenue, 3rd Floor, Suite 314  
CN 350  
Trenton, New Jersey 08625

Re: **PRN 2017-164 and BPU Docket Number: AX1750469**  
AARP COMMENTS CONCERNING THE NJ BOARD OF PUBLIC UTILITIES  
PROPOSED NEW RULES: N.J.A.C. 14:3-2A, INFRASTRUCTURE  
INVESTMENT AND RECOVERY

And

**PRN 2017-165 and BPU Docket Number: AX1750468**  
AARP COMMENTS CONCERNING THE NEW JERSEY BOARD OF PUBLIC  
UTILITIES' PROPOSED RULES ON THE IMPLEMENTATION OF  
PROVISIONAL BASE RATES

Dear Secretary Asbury,

Please accept the enclosed copies of 1024 comments concerning the above referenced rule proposals. These have been filed by utility consumers who are AARP members and non-AARP members.

Thank you for your careful consideration of AARP's comments. If you have any questions or would like additional information please do not hesitate to contact me at [eliebman@aarp.org](mailto:eliebman@aarp.org).

Sincerely,

Evelyn Liebman  
AARP NJ Director of Advocacy

Attachments

Cc: w/o Attachments

NJ Governor Chris Christie  
NJ BPU President Richard Mroz  
NJ BPU Commissioner Joseph L. Fiordaliso  
NJ BPU Commissioner Mary-Anna Holden  
NJ BPU Commissioner Dianne Solomon  
NJ BPU Commissioner Upendra Chivukula  
NJ Division of Rate Counsel Director Stefanie Brand

*AARP is a nonprofit, nonpartisan organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands*

Sep 25, 2017

Secretary Irene Kim Asbury  
44 South Clinton Avenue, 3rd Floor, Suite 314 CN 350  
Trenton, NJ 08625

Dear Secretary Asbury,

Re: Proposal Number: PRN 2017-165 and  
Proposal Number: PRN 2017-164



RECEIVED

OCT 12 2017

BOARD OF PUBLIC UTILITIES  
MAIL ROOM

AX17050468

I am writing to oppose PRN 2017-165 and PRN 2017-164. These proposed regulations will harm utility consumers. Allowing utilities to increase rates provisionally, before the company has proven they even need a rate increase and that the price is reasonable, weakens important consumer protections. Because utility companies often file for rate increase well above what they are actually granted sometimes 65-70% higher - the BPU's proposal would allow utility companies to receive a financial windfall at my expense. Customers should not be used as a bank to make lucrative loans to their utility companies.

The proposed rule to weaken regulations and oversight by allowing utility companies to increase bills by adding a new surcharge, on top of what we are already paying, for infrastructure programs also hurts consumers. The proposed regulation would allow rates to be hiked without a comprehensive, independent review of all utility costs and investment decisions to determine if our rates are reasonable. Utilities have an obligation to make all necessary infrastructure investments without new surcharges and without weakening oversight. This is what we are already paying for. Failing to carry out this obligation amounts to holding consumers hostage, rather than fulfilling its obligation to serve. This proposal will fast-track rate increases and is not needed to ensure a strong utility infrastructure.

Sincerely,

Dr. Douglas Klein  
104 rico dr  
Morganville, NJ 07751  
[\(732\) 547-9112](tel:7325479112) [dkleindds@comcast.net](mailto:dkleindds@comcast.net)

A handwritten signature in blue ink that reads 'J. Boyd'. Above the signature, there is some faint, illegible handwriting.

