

May 12, 2017

New Jersey Board of Public Utilities
Attn: Irene Kim Asbury
44 South Clinton Ave., 3rd Floor, Suite 314
CN 350
Trenton, NJ 08625

Introduction

The New Jersey Utilities Association (NJUA) represents the investor-owned utilities providing New Jersey's businesses and residents with safe and reliability electric, water, sewer and natural gas service.¹ The NJUA appreciates the Board and its Staff seeking input from the utility industry on the Straw Proposal regarding "provisional rates." Some of NJUA's member companies may have additional comments, and reserve the right to present such comments prior to the close of the comment period.

NJUA supports this straw proposal regarding the implementation of provisional rates during the pendency of a base rate proceeding. We thank Staff for their diligent work developing and issuing the straw proposal. As noted in the proposal itself, and detailed by Staff at the public meeting held on May 4, 2017, N.J.S.A 48:2-21(d) already provides utility companies the opportunity to implement interim rates after two four-month suspension periods, up to the full amount of its proposed rates.

This proposal, if adopted as a rule by the Board, would provide additional clarity and certainty regarding the authority provided to utilities by this statute. It is worth noting that, according to the Annotated Statutes, the statutory language was last amended in 1962.

Interim or provisional rates of course are not a new phenomenon, and have been in use in other states. We encourage the Board to look to nearby states, such as Pennsylvania and Maryland, where a utility may effectuate interim rates at the end of specified suspension periods² after the filing of its rate petition. Further, we are aware of at least one recent example in Delaware of provisional rates being higher than the final approved rates, with the difference returned to customers via a bill credit³.

¹ For purposes of these comments NJUA represents Atlantic City Electric Company, Atlantic City Sewerage Company, Elizabethtown Gas, Gordon's Corner Water Company, Jersey Central Power and Light, Middlesex Water Company, New Jersey American Water, New Jersey Natural Gas, Public Service Electric and Gas, Rockland Electric Company, South Jersey Gas, and Suez.

² Pennsylvania suspension period is 7 months

Maryland suspension period is 180 days

³ See, e.g., Delaware PSC Order No. 8611 (Aug. 19, 2014)

Aqua New Jersey, Inc. • Atlantic City Electric Company • Atlantic City Sewerage Company • Elizabethtown Gas • Gordon's Corner Water Company • Jersey Central Power & Light, A FirstEnergy Company • Middlesex Water Company • New Jersey American Water • New Jersey Natural Gas. • Public Service Electric & Gas Company • Rockland Electric Company • South Jersey Gas • SUEZ • Verizon New Jersey

Thus, it is important to remember that interim or provisional rates are not a new concept nationally or under New Jersey's law. However, Staff's proposal provides additional, needed clarification of the process for implementing such interim rates.

Comments on Specific Elements of the Straw Proposal

With respect to the tariff to be used to bill provisional rates (bullet #3), NJUA believes that the cost allocation and rate design underlying the tariff rates currently in effect should be the basis to establish provisional rates. Refunds during the provisional rate period (i.e., from the time provisional rates are effective up to the date that final rates are effective) would also be calculated based the cost allocation and rate design underlying the tariff rates in effect during the provisional period.

With respect to interest applied to any over/under-collections during the provisional rate period (bullet #4), NJUA believes that the interest should be symmetrical, especially should Staff's recommendation be to implement provisional rates at some amount less than the amount requested. Because it is reasonably expected that the base rate proceeding would be resolved within a 1-year period, NJUA recommends use of the interest rate calculated pursuant to NJAC 14:3-3.5(d).

With respect to refunds to customers (bullet #5), NJUA believes that refunds/collections should be provided to customers as a single bill credit/charge applied to the first full month's bill (under final rates), following the effective date of final rates. NJUA does not believe that rebilling and reissuing monthly invoices for the provisional rate period, once final rates are effective, is resource efficient and, most importantly, it is likely to lead to customer confusion.

The NJUA member companies agree with the notice requirements specified in the proposal, as well as the requirement to provide revised tariffs. Regarding notices (bullet #8), NJUA recommends including the following language, which NJUA believes would provide efficiencies and time savings for Staff:

"Staff has five business days to notify the utility, in writing, via electronic mail, if it determines that the Notices were deficient. If Staff does determine that the Notices were deficient, it must specify the exact deficiency (ies) and provide an acceptable correction. If Staff does not notify the utility by the close of business on the fifth business day, the Notices are deemed effective and appropriate."

Finally, in order to ensure that utilities are not disadvantaged by implementing provisional rates, we believe that regulations to implement this proposal should include the following language:

"Neither the Board nor any other party shall cite a utility's decision to implement provisional rates in any Board proceeding or in any filing to the Board. The Board shall not cite a utility's decision to implement provisional rates in any decision, Order, or ruling."

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NJUA once again would like to express its appreciation to Staff and the Board for its work on this matter, and willingness to put forward a straw proposal for discussion and receive stakeholder input. With these modifications, we support the adoption of this proposal as regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "A. D. Hendry", with a large, stylized flourish at the end.

Andrew D. Hendry
President