



## **Proposed Main Extension Rules May Impact Developers**

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Developers and other interested parties still have time to submit comments on the State's proposed regulations on utility main extensions; the deadline is January 30, 2015. The proposed regulations, published in the New Jersey Register, 46 N.J.R. 2323(a) (Dec. 1, 2014), will amend, repeal, and replace several sections of the existing regulations on main extensions at N.J.A.C. 14:3-8. If adopted, the proposed regulations would govern the conduct of all regulated utilities, except cable television operators (which are governed separately).

The proposed regulations are a noteworthy change from the existing regulations. Most significantly, the proposed regulations address the reasons for the Appellate Division's invalidation of the prior regulations. To do so, the proposed regulations no longer distinguish main extensions serving areas designated for growth from main extensions serving non-growth areas. The proposed regulations also formally establish a refund policy for developers that paid for extensions in non-growth areas between March 20, 2005 and December 30, 2009. In addition to addressing the Appellate Division's concerns, the proposed regulations clarify whether a utility may require a deposit for an extension and, if so, the timeframe for and amount of any refund from the utility. Key changes are discussed below.

Amendments are proposed at N.J.A.C. 14:3-8.5, which discusses general provisions regarding the cost of extensions. The proposed regulations would require "mutual agreement" to determine the cost paid by a developer to the utility. If agreement cannot be reached, the proposed regulations would allow either party to petition the BPU to apply the appropriate "suggested formula" for determining contributions. If a utility requires a deposit or non-refundable contribution, it must first provide the detailed cost information supporting that deposit. The proposed regulations replace N.J.A.C. 14:3-8.6 with a new, detailed rule governing deposits, contributions, and refunds for extensions and their treatment under the Tax Reform Act of 1986.

Amendments proposed at N.J.A.C. 14:3-8.10 significantly modify the suggested formula for allocating extension costs for multi-unit and nonresidential development. Proposed revisions explain that the estimated cost of the extension (which equates to the deposit required from the developer) shall be stated in writing by the utility. Further revisions substantially reduce the multiplier (from 10 to 2.5) used for determining water and wastewater customer refunds of the deposit money to the developer. This change should be considered by developers that will require extensions for water or wastewater service or municipalities looking to attract development to areas not currently served.



Comments on the proposed regulations must be submitted by January 30, 2015. Further analysis of the impact of the proposed regulations on a specific project can be available on request. For more information, please contact [Cynthia L. M. Holland](mailto:cholland@genovaburns.com) in the [Energy and Utility Practice Group](#) at [cholland@genovaburns.com](mailto:cholland@genovaburns.com).

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