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Utility Smart Growth – Opportunity and Risk

By: Timothy R. Comerford

In March of 2006 the New Jersey Board of Public Utilities (NJBPU) issued regulations incorporating "Smart Growth" principles into regulated utility service policies. Smart Growth is well-planned development that protects open space, revitalizes older suburban and urban communities, keeps housing affordable, provides for transportation choices and maintains the economy and quality of life of both urban and rural areas.

While New Jersey has been aggressively promoting smart growth principles for many years through the State Development and Redevelopment Plan, the concept got a real push in 2002, when Governor McGreevey made it a focus of his Administration. Governor McGreevey instructed each department within state government to analyze its ability to impact smart growth and to implement programs, strategies, and regulations that supported his smart growth goals. This emphasis led to the utility smart growth regulations that were implemented late last year.

The new utility smart growth regulations represent the first major change in gas and electric service policies in decades, and significantly change how utilities can invest in line extensions and customer services. Under the new rules, most customers, which include builders and developers, are required to pay for line extensions and services needed to supply utility service to new buildings or developments.

In smart growth areas, monies are reimbursed based on a new refunding methodology, which offers financial benefits to customers. In non-growth areas, no monies are refunded and the customer must absorb the full cost of providing new infrastructure for utility service.

A 'growth area' is defined in the State Development and Redevelopment Plan as those areas designated Planning Area 1 (Metropolitan Planning Area), Planning Area 2 (Suburban Planning Area), a designated 'center' and an area either designated by the New Jersey Meadowlands Commission or the Pinelands Commission. All other planning areas are designated as 'non-growth' areas.

For maps detailing planning areas, growth or non-growth areas, visit PSE&G's economic development website, www.locationnj.com, or the state's Office of Smart Growth website (http://www.state.nj.us/dca/osg/resources/maps/index.shtml). The utility smart growth regulations apply to gas, electric, water, telephone and cable.

It is important to remember that the new regulations stipulate that there be no refund of deposits for utility customers in non-growth areas. These customers will be billed the entire cost of the line extension, including pipes, conduits, wire, poles, transformers, regulators, service lines and the meters. The cost includes the income tax effect on utility companies which is approximately 30%.

In growth areas, a credit of 10 times the estimated annual non-supply revenue is applied against the total cost of any extension work necessary to provide service. New individual residential customers get the revenue credit applied to determine if any deposit is necessary. This means any new individual residential customers whose estimated annual non-supply revenue is at least 10% of the cost of the installation, is not required to pay a deposit. For all other new customers, a deposit for the entire cost of the extension will be required. The customer will receive a 10 times distribution revenue credit when the meters are set.

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Like any rule, there are a few exceptions. In cases where there are agricultural buildings on commercial farms, gas conversions to existing buildings, projects where construction is already in progress or where a utility has committed in writing to financially support a specific extension prior to 3/20/05 or where NJBPU Staff has determined a project deserves a "significant public good" or "extraordinary hardship" designation, customers will be treated as if they were in a growth area. The regulations stipulate that are no automatic exceptions.

The new utility smart growth rules also contain a provision called the "Smart Growth Infrastructure Investment Program" (SGIIP), which allows for an incentive for the redevelopment of certain sites. Under this provision, utilities may include the cost of necessary relocations, upgrades, and expansions of infrastructure necessary to serve new customers in SGIIP designated areas. A SGIIP area is any area in a municipality that is located in Planning Area 1, and for which the municipality has obtained appropriate formal endorsement from the State Planning Commission. Including relocation cost into the program enables customers to recover the cost of utility expenses that would normally be paid and not refunded. In addition, the SGIIP allows utilities to apply a 20 times distribution revenue credit versus a 10 times distribution revenue credit. This may allow customers to quickly recover more of their investment.

The new utility smart growth rules offer both opportunities and risk in the form of additional costs, depending on the location of the new development. Many new procedures and applications have been adopted by utilities to meet the requirements of the new NJBPU regulations, such as certification of planning areas and deposit requirements. Therefore, it is important that anyone considering new development contact local utilities early on in the development and redevelopment process to fully appreciate the cost and time associated with their project.

Tim Comerford is Manager of Area Development for Public Service Electric and Gas Company. Public Service Electric and Gas Company (PSE&G) is New Jersey's oldest and largest regulated gas and electric delivery utility, serving nearly three-quarters of the state's population. PSE&G is the winner of the Reliability One National Achievement Award for superior electric system reliability. PSE&G is a subsidiary of Public Service Enterprise Group Incorporated (PSEG) (NYSE:PEG), a diversified energy company (www.pseg.com). PSE&G Area Development Department has maintained a strong economic development program in New Jersey for over 75 years. The department works closely with the Commerce Commission, New Jersey Economic Development Authority and many regional and county economic development organizations to attract and expand business in the State.