

7. A detailed explanation and justification for any proposal to use program services funds under the Partnership Grant Program to hire additional county personnel in order to implement or expand county-operated sanctions and services.

i. Any such proposal shall have been approved by a 2/3 vote of the county youth services commission;

ii. The explanation and justification must demonstrate to the satisfaction of the Commission that county-operated sanctions and services provide the most efficient and expedient method to address a high priority of the Partnership/Family Court Program; and

iii. Unless pursuant to a competitive RFP process under the provisions of N.J.A.C. 13:90-3.12, a county may not allocate to county-provided sanctions and services more than 1/3 of the program component of a Partnership Grant Program allocation that has been awarded to program services by the Commission.

(d) The Executive Director or designee shall approve a county application for funding, provided that:

1. The application is timely submitted in proper form and is complete;

2. Both the application and the accompanying triennial comprehensive plan or update, as applicable, are in compliance with all applicable requirements of this chapter; and

3. The county youth services commission is otherwise in compliance with all applicable requirements of this chapter.

13:90-[3.9]3.12 Contracting requirements

(a) [Each] In consultation with the Executive Director or designee, each youth services commission shall engage in an RFP process for providers, in accordance with applicable law, to implement sanctions and services and delinquency prevention programs.

(b) Each youth services commission shall use its best efforts to involve community-based organizations and agencies, including minority service providers, in the implementation of the Partnership/Family Court Program through the RFP process.

(c) Each youth services commission shall establish a written appeal procedure that addresses the process by which a party may challenge an RFP and/or a recommendation to approve or disapprove a contract to the county governing body.

(d) Each youth services commission shall recommend the approval or disapproval of a contract award to particular providers to the county governing body which makes the final determination of contract award.

13:90-[3.10]3.13 Funds management

(a) Each county shall expend and account for all Partnership/Family Court Program funds in accordance with those laws and procedures for expending and accounting for its own funds. Each county shall adhere to generally accepted accounting principles for state and local governments, including, for example, governmental accounting and financial reporting standards promulgated by the Governmental Accounting Standards Board. Fiscal control and accounting procedures of the counties shall be sufficient to:

1. Permit preparation of reports required by the [Juvenile Justice] Commission and the statutes authorizing the grant; and

2. (No change.)

(b) The [Juvenile Justice] Commission requires that each county ensure that providers maintain a financial management system that evidences adequate financial reporting, accounting records, internal control, budgetary control, source documentation, and procedures relating to the procurement, identification, use, and disposition of equipment.

(c) Each county shall develop and maintain a procedure that defines standards for an annual audit of programs funded through the Partnership/Family Court Program.

(d) In addition to any other audit requirements, the [Executive Director] Commission reserves the right to conduct an audit of Partnership/Family Court Program funds awarded to each county. Duly authorized representatives of the Commission shall have access for purposes of audit and examination, to any relevant books, documents, papers, and records of the county, youth services commission, and/or provider agencies receiving Partnership/Family Court Program funds.

## PUBLIC UTILITIES

(a)

### BOARD OF PUBLIC UTILITIES

#### Rules of Practice

#### Proposed Readoption with Amendments: N.J.A.C. 14:1

#### Proposed New Rules: N.J.A.C. 14:1-5.16 and 7.5

Authorized By: New Jersey Board of Public Utilities, Richard S.

Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden,

Dianne Solomon, and Upendra J. Chivukula, Commissioners.

Authority: N.J.S.A. 47:1A-1 et seq., 48:2-12, and 52:27F-18.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: AX15010031.

Proposal Number: PRN 2015-028.

Comments may be submitted through May 15, 2015, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us) or on paper to:

Kenneth Sheehan, Secretary

Board of Public Utilities

ATTN: BPU Docket Number AX15010031

44 S. Clinton Ave., 9th Floor

PO Box 350

Trenton, NJ 08625-0350

The agency proposal follows:

#### Summary

The New Jersey Board of Public Utilities is proposing to readopt its rules of practice, found at N.J.A.C. 14:1. These rules govern practice and procedure before the New Jersey Board of Public Utilities, which includes all pleadings, petitions, and filings; fees and charges; and appearances and motions in both contested and uncontested cases. The rules also cover confidentiality issues that arise pursuant to the Open Public Records Act.

Pursuant to N.J.S.A. 52:14B-5.1.c(2), the rules are scheduled to expire on August 30, 2015. As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Below is a section-by-section description of the rules, along with the proposed amendments and new rules.

#### Subchapter 1. General Provisions

Existing N.J.A.C. 14:1-1.1, which covers the scope of the rules, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-1.2, which provides for liberal construction and amendment of the rules, and for Board relaxation of the rules in special cases, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-1.3, contains definitions of terms used in the rules, and an amendment is proposed to the definition of "presiding officer" to clarify that a presiding officer hears contested, as well as uncontested cases.

Existing N.J.A.C. 14:1-1.4, which provides the street address and office house of the Board, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-1.5 delineates the different filing methods for formal and informal proceedings brought before the Board, and is proposed for amendment to remove duplicative use of the word "formal."

Existing N.J.A.C. 14:1-1.6 governs communications with the Board, and is proposed for amendment at subsection (c) to also allow electronic/faxed documents in formal proceedings as permitted by order of the Board or the presiding commissioner.

Existing N.J.A.C. 14:1-1.6A, which covers the submittal of comments on rule proposals, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-1.7, which addresses the Board's official records, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-1.8, which governs the use of photographic equipment in Board proceedings, is proposed for readoption without amendment.

#### **Subchapter 2. Fees and Charges**

Existing N.J.A.C. 14:1-2.1, which governs the amount of fees and charges more particularly set forth in N.J.S.A. 48:2-56, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-2.2, which governs the collection of fees and charges for document filings, is proposed for readoption without amendment.

#### **Subchapter 3. Appearance Before the Board**

Existing N.J.A.C. 14:1-3.1, which authorizes the Board to require evidence of a person's authority to appear before the Board in a representative capacity, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-3.2, which requires adherence to ethical standards by attorneys appearing before the Board, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-3.3, which governs appearances of former employees before the Board for six months after severing the association with the Board, is proposed for readoption without amendment.

#### **Subchapter 4. Pleadings**

Existing N.J.A.C. 14:1-4.1, which describes the types of pleadings that may be filed with the Board, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.2, which sets forth requirements for the number of copies of each pleading filed, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.3, which requires that certain documents submitted with pleadings conform to the Uniform System of Accounts, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.4, which provides that the Board will construe pleadings with the view to affect justice, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.5, which sets forth requirements for serving pleadings and providing notice of filings to parties and the public, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.6, which requires that certain pleadings be verified, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-4.7, which provides for amendments to pleadings to reflect changes in facts or circumstances, is proposed for readoption without amendment.

#### **Subchapter 5. Petitions**

Existing N.J.A.C. 14:1-5.1, which sets forth the basic requirements for the form and content of petitions, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.2, which sets forth required information that must be included in a petition when the relief sought requires the approval of another government body in addition to the Board, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.3, which provides for a petitioner to join with another, and for the Board to sever joined petitions, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.4, sets forth the Board's procedures upon the filing of a petition, and is proposed for amendment to change the number of days for the Board to act from 20 days to 60 days. A further amendment is proposed to indicate that if the Board does not act on a petition, rather than if the Board disapproves the satisfaction of the petition, the new timeframe is applicable.

Existing N.J.A.C. 14:1-5.5, sets forth the requirements for petitions for approval of franchises and consents, and is proposed for amendment to remove the Division at the Department of Environmental Protection where application must be made.

Existing N.J.A.C. 14:1-5.6, sets forth the requirements for petitions for approval of sales or leases of property. In addition to proposing a clarifying amendment, the Board is proposing to codify its current practice of requiring water utilities to notify the Board whether a proposed conveyance or lease of land is subject to the Watershed

Property Review Board; and to relocate existing language from paragraph (d)4 to paragraph (k)3, as the sales described in the paragraph are in the ordinary course of business and need not be filed with the Board.

Existing N.J.A.C. 14:1-5.7, which sets forth the requirements for petitions for approval of changes in the depreciation rate a utility uses, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.8, sets forth the requirements for petitions for authority to utilize eminent domain, and is proposed for amendment to conform the rule with the provisions of N.J.S.A. 48:3-17.7, by changing paragraph (a)5 to indicate the property "is desired for the service, accommodation, convenience 'or' safety of the public," rather than "... 'and' safety of the public."

Existing N.J.A.C. 14:1-5.9 sets forth the requirements for petitions for authority to issue certain notices of indebtedness, such as stocks or bonds, and for authority to execute mortgages. The section is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.9A, which sets forth certain requirements for approval of security issues by utilities, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.10, which sets forth the requirements for petitions for approval of transfers of capital stock, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.11, which sets forth the requirements for tariff filings if the tariff or tariff amendments would not increase charges to customers, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.12, sets forth the requirements for tariff filings if the tariff or tariff amendments would increase charges to customers, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.12A, which sets forth the requirements for approval of changes to the tariff filings if the tariff or tariff amendment would not increase charges to customers, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.13, provides for the filing of an informal complaint in lieu of a petition, and is proposed for amendment to require that the submission must include the desired outcome.

Existing N.J.A.C. 14:1-5.14, which sets forth the requirements for approval of a petition for a merger, consolidation, acquisition, or change in control, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-5.15, which sets forth the requirements for approval of petitions requesting permission to keep records outside of New Jersey, is proposed for readoption without amendment.

Proposed new N.J.A.C. 14:1-5.16 sets forth the requirements for petitions for rulemaking in accordance with N.J.A.C. 1:30-4. Additionally, the proposed new rule states that any filing submitted to the Board that are not in substantial compliance with the proposed new rule will not be considered to be a petition for rulemaking. The filer must be notified of this determination within 15 days of receipt of the filing.

#### **Subchapter 6. Answers and Replies**

Existing N.J.A.C. 14:1-6.1, which sets forth the requirements for the form and content of answers and replies to petitions, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-6.2, which sets forth deadlines for filing of answers or replies, is proposed for readoption without amendment.

#### **Subchapter 7. Conferences and Settlements**

The Board is proposing to rename the subchapter "Conferences and Settlements," rather than "Conferences" based on the proposed addition of N.J.A.C. 14:1-7.5, Approval of settlements.

Existing N.J.A.C. 14:1-7.1, which sets forth the purpose of the subchapter regarding conferences, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-7.2, which provides for the Board to require a pre-transmittal conference, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-7.3, which requires a stipulation to the results of the conference, is proposed for readoption without amendment.

Existing N.J.A.C. 14:1-7.4, which sets forth the authority of Board designees to conduct pre-transmittal conferences, is proposed for readoption without amendment.

Proposed new N.J.A.C. 14:1-7.5 provides that a settlement includes any agreement between the parties that resolves disputed matters and may end all or part of the case. The proposed new rule also states that no settlement shall be deemed approved by the Board unless acted on in accordance with N.J.S.A. 48:2-40.

#### **Subchapter 8. Contested Case Hearings**

Existing N.J.A.C. 14:1-8.1, requires that contested cases be conducted in accordance with the procedures in the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1, and the Board of Public Utilities Rules of Special Applicability, N.J.A.C. 1:14. The Board is proposing an amendment providing that the initial determination of whether a matter is a contested case will be made by Board staff and is subject to review by the Board.

Existing N.J.A.C. 14:1-8.2, which provides for the filing of exceptions to the initial decision in a contested case, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-8.3, which provides for the Board to initiate a review of the initial decision, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-8.4, which provides for the reopening of a contested case, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-8.5, sets forth the content and procedure for a motion to reopen a contested case, and is proposed for amendment to change “[a]fter issuance of the final decision ...” to “[a]fter the effective date of the final decision ...” to conform the section to a statutory change, P.L. 2011, c. 63.

Existing N.J.A.C. 14:1-8.6, provides for motions for rehearing, reargument, or reconsideration, and is proposed for amendment to change “within 15 days after the issuance of any final decision ...” to “within 15 days after the effective date of any final decision ...” to conform the section to a statutory change, P.L. 2011, c. 63.

Existing N.J.A.C. 14:1-8.7 sets forth requirements for filings and notice to the parties of motions, provides that no action by the Board within 60 days shall be deemed a denial, and that filing or granting of motions does not stay a Board decision. The section is proposed for reoption without amendment.

#### **Subchapter 9. Uncontested Case Proceedings**

Existing N.J.A.C. 14:1-9.1, sets forth the scope of the subchapter on uncontested case proceedings, and is proposed for amendment to clarify the section.

Existing N.J.A.C. 14:1-9.2, which authorizes the Board to designate a hearing officer in an uncontested proceeding, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-9.3, which sets forth requirements for filings in uncontested case proceedings, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-9.4, which allows the use of recording devices at uncontested case proceedings, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-9.5, which cross-references requirements for appearances found at N.J.A.C. 14:1-3, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-9.6, which allows a grace period after filings by mail, is proposed for reoption without amendment.

#### **Subchapter 10. Compliance with Orders, Decisions, and Recommendations**

Existing N.J.A.C. 14:1-10.1, requires a party to notify the Board of its compliance or noncompliance with a Board directive, and is proposed for amendment to change “[u]pon issuance of an order ...” to “[u]pon the effective date of an order ...” to conform the section to a statutory change, P.L. 2011, c. 63.

Existing N.J.A.C. 14:1-10.2, which requires a party to notify the Board of its acceptance or rejection of a Board recommendation, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-10.3, which provides for extensions of time limits for compliance with a Board directive, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-10.4 sets a 15-day deadline for compliance with a Board directive requiring investigation, and is proposed for amendment to change “telegram” to “notice” to conform the section to a statutory change, P.L. 2011, c. 63.

#### **Subchapter 11. Reserved**

Subchapter 11 is reserved.

#### **Subchapter 12. Procedures for Determining the Confidentiality of Submitted Information**

Existing N.J.A.C. 14:1-12.1, which sets forth the scope of the subchapter concerning the Board’s procedures for determining the confidentiality of submitted information, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.2, which sets forth definitions of terms used in the subchapter concerning the Board’s procedures for determining the confidentiality of submitted information, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.3, which sets forth the procedure for making a confidentiality claim regarding submitted information, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.4, which requires a person claiming the confidentiality of submitted information to designate one person to receive notices and correspondence from the Board concerning the claim, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.5, which enumerates the information that the Board will send to the claimant’s designee and provides the address of the Board’s records custodian, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.6, which sets timeframes for the Board to act on confidentiality claims, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.7, which sets forth the required contents and timing of a notice to the claimant of a pending confidentiality claim, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.8, which sets forth requirements for substantiating a confidentiality claim, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.9, which provides for the Board to notify the claimant of the final confidentiality determination, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.10, which requires the Board to treat information that is claimed confidential as confidential, until the Board has made a final determination on the confidentiality claim, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.11, which provides for the Board to release information it deems not confidential, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.12, which provides for the Board to disclose confidential information to other public agencies under certain circumstances, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.13, which provides for the Board to disclose confidential information to its contractors under certain circumstances, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.14, which provides for the Board to disclose confidential information in order to alleviate danger under certain circumstances, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.15, which provides for the Board to disclose confidential information if the claimant provides written consent, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.16, which provides for the Board to use confidential information in aggregations of data under certain circumstances, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.17, which provides for these rules to supersede confidentiality agreements other than Board orders, is proposed for reoption without amendment.

Existing N.J.A.C. 14:1-12.18, which provides for payment to the Board for copies of records, is proposed for reoption without amendment.

**Social Impact**

The rules proposed for readoption with amendments and new rules will have a positive social impact in that they will continue and clarify the Board’s procedures for contested and uncontested proceedings and treatment of information claimed as confidential. The proposed amendments, in addition to conforming to statutory changes, would update the rules to conform to current Board practices. These rules are designed to ensure orderly practice and procedure before the Board by establishing guidelines and specific requirements for the filing of petitions requesting relief from the Board, and other related submissions; as well as addressing the handling of all proceedings before the Board and the conduct of all affected parties. As they set forth the specific information that must be included in all filings, as well as the time frames within which said information must be submitted, these rules are essential if the Board is to process those petitions lawfully before it in an expeditious and just manner. While the majority of matters brought before the Board are submitted by regulated public utilities, petitions are also filed by persons who have grievances against regulated public utilities, or who seek other forms of relief that are within the jurisdiction of the Board.

**Economic Impact**

While the rules proposed for readoption with amendments and new rules impose no direct or specific costs, all petitioners and other parties will incur varying levels of expenses in preparing and litigating petitions before the Board. These expenses will include costs related to legal assistance, accounting work, engineering input, and expert witnesses, as well as expenses involved in physically preparing and filing the appropriate submissions. With regard to regulated public utilities, all reasonable levels of expenses incurred in complying with these requirements will be considered to be business expenses to be recovered through customer charges. All fees and charges associated with practice and procedure before the Board are set pursuant to statute, N.J.S.A. 48:2-56. The collection of these fees and charges, however, is inapplicable to public utilities, which are subject to assessment pursuant to law, N.J.S.A. 48:2-72.

Finally, none of the proposed amendments and new rules will have an adverse economic impact, beyond that mentioned above.

**Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require 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. N.J.A.C. 14:1 is 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 incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., do not require a Federal standards analysis for the rules proposed for readoption with amendments and new rules.

**Jobs Impact**

The Board anticipates that the rules proposed for readoption with amendments and new rules will have little or no impact on jobs in New Jersey. The rules proposed for readoption with amendments and new rules continue existing requirements for which any needed personnel are already in place. The rules proposed for readoption with amendments and new rules do not increase the number of employees that would be required by any of the entities regulated by the rules.

**Agriculture Industry Impact**

N.J.A.C. 14:1 has not to date had any impact on the agriculture industry in New Jersey, and no such impact is anticipated as a result of the rules proposed for readoption with amendments and new rules.

**Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments and new rules at N.J.A.C. 14:1 will impose some recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. As

these rules apply to any person initiating or participating in proceedings before the Board, the rules will undoubtedly affect some small businesses. However, it is impossible to determine how many small businesses will be affected.

While the rules impose some minor reporting, recordkeeping, and compliance requirements, as discussed in the Summary above, these are generally simple requirements that provide for predictability and consistency in the Board’s proceedings, and therefore ultimately result in a benefit to all affected persons, including small businesses. Furthermore, the procedures help to protect parties to Board proceedings by ensuring notice of filings by other parties, and protection of the confidentiality of submitted information. Therefore, no special provisions for small businesses have been proposed.

To varying degrees, participants may choose to utilize professional services to assist in the preparation, filing, or litigation of matters before the Board. These services may include legal, accounting, engineering, and economic advisers. As previously indicated, all reasonable levels of expenses incurred by a public utility will be considered to be business expenses that may be recovered through rates to customers.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and new rules will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the rules of practice and procedure before the Board of Public Utilities.

**Smart Growth Development Impact Analysis**

The Board anticipates that the rules proposed for readoption with amendments and new rules will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to the rules of practice and procedure before the Board of Public Utilities.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:1.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

14:1-1.3 Definitions

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

...  
 “Presiding officer” means any member of the Board or a staff member who is designated [as] **to conduct** a hearing [examiner] in [an uncontested] **a** case.  
 ...

14:1-1.5 Requesting Board action on a complaint

- (a) All [formal] petitions that seek to start a formal proceeding before the Board shall conform to N.J.A.C. 14:1-4 and 5.
- (b)-(c) (No change.)

14:1-1.6 Communications

- (a)-(b) (No change.)
- (c) In a formal proceeding, a document submitted via fax or electronically will neither be date/time stamped as formally received by the Board nor be entered into the case or rulemaking record, except as provided under N.J.A.C. 14:1-1.6A **or otherwise permitted by order of the Board or a presiding Commissioner**. Such documents shall only be distributed to the addressee.

SUBCHAPTER 5. PETITIONS

14:1-5.4 Procedures of Board on filing of petition

- (a)-(c) (No change.)
- (d) If within the time allowed for answer, the respondent makes an offer of satisfaction, which is accepted by the petitioner, such offer and

acceptance signed by the parties or their attorneys shall be filed with the Board and if not [disapproved] **acted on** by the Board within [20] **60** days, the petition shall be deemed satisfied and the proceedings closed without further action.

(e) (No change.)

14:1-5.5 Petitions for approval of franchises or consents

(a) (No change.)

(b) In cases where the petition involves a new water or wastewater company, the petition shall, in addition to the requirements of (a) above, also provide the following information:

1.-3. (No change.)

4. A statement as to status of petitioner's application to [the Division of Water Policy of] the Department of Environmental Protection for the diversion of water and approval of the proposed facilities. If the Department of Environmental Protection approval has not yet been given, the petitioner shall obtain and submit with the petition a copy of a letter from said Department expressing intent to approve the operation of the plant as it is proposed to be constructed.

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

14:1-5.6 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance, or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.A.C. 14:1-4 and [N.J.A.C. 14:1-]5.1 through 5.4 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. (No change.)

2. The name of **the** transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferor or lessor;

3.-4. (No change.)

5. The purpose for which the property was originally acquired, the date of acquisition, the use made of the property for utility purposes, the date when and circumstances under which it ceased to be useful for such purposes, the present use, the possible prospective use, and the identity of the official or officials who determined that the property is not now or prospectively required or useful for utility purposes.

i. Any utility requesting to convey land utilized for the protection of a public water supply to a corporation or other entity which is not subject to the jurisdiction of the Board shall submit to the Board a detailed explanation of the prospective use or uses of the land to be conveyed and an assessment of the impact that the conveyance, and the prospective use or uses of the land conveyed, would have on the water quality of the affected public water supply[;].

ii. **Any water utility requesting to convey or lease land shall include a statement as to whether the property is subject to the jurisdiction of the Watershed Property Review Board and if so, describe the status of any pending application before that Board;**

6.-15. (No change.)

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

(d) In addition to any other transactions [which] **that** on their merits may be deemed to be in the ordinary course of business, the sale, lease, encumbrance, or other disposition by any utility of such of its property or an interest therein as is set forth in (d)1, [through 4] **2, and 3** below, may be consummated without petition to the Board for approval, provided, however, that the utility shall have given written notice thereof to the Board, to be received not less than 30 days prior to the effective date of the proposed sale, lease, encumbrance, or other disposition of such property. The transactions [which] **that** may be completed without petition to the Board are as follows:

1. (No change.)

2. Except as provided in this section, the lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$500,000 and a net rental not in excess of \$50,000 per annum; **and**

3. The sale or release of real property, or any interest therein, not used by or useful to the utility and having a net book cost and sale price not in excess of \$500,000[; and].

[4. The grant by a utility of easements, licenses, tower leases and roof-top leases where such transactions do not compromise the needs of the utility and will not affect the utility's ability to provide safe, adequate and proper service.]

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

(k) For the purposes of this subchapter, the term "ordinary course of business" shall include, in addition to any other transaction [which] **that** on its merits may be deemed to be in the ordinary course of business:

1. Any transaction involving the sale or other disposition of a utility's surplus personal property or equipment no longer used or useful to the utility, where there is no prospective use of the property for utility purposes and the sale or other disposition of the property will not affect the utility's ability to continue to provide safe, adequate, and proper service; [or]

2. Any quit claim deed to resolve an ambiguity or dispute, corrective deed, exchange of personal property with comparable market values, or the exchange of contiguous real property where such exchange does not compromise the needs of the utility and the affected properties have comparable market values[.]; **or**

**3. The grant by a utility of easements, licenses, tower leases, and roof-top leases where such transactions do not compromise the needs of the utility and will not affect the utility's ability to provide safe, adequate, and proper service.**

14:1-5.8 Petitions for authority to exercise power of eminent domain

(a) Petitions for authority to exercise the power of eminent domain shall conform to the requirements of N.J.A.C. 14:1-4 and [14:1-]5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1.-4. (No change.)

5. Allegations that the property desired is reasonably necessary for the service, accommodation, convenience, [and] **or** safety of the public, and that the taking of such property is not incompatible with the public interest, and would not unduly injure the owners of private property;

6.-7. (No change.)

(b) (No change.)

14:1-5.13 Informal complaint in lieu of petition

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

(c) While no form of informal complaint is prescribed, to be considered by the Board, such informal complaint must state the name and address of the complainant and the party complained of, as well as the essential facts upon which the complaint is based, including the dates of acts or omissions complained of **and the desired outcome.**

(d)-(i) (No change.)

14:1-5.16 Petitions for rulemaking

(a) **An interested person may petition the Board to adopt a new rule or amend or repeal an existing rule.**

(b) **The review of the petition by the Board shall not be considered a contested case and is not subject to the provisions of N.J.A.C. 14:1-8.**

(c) **The petition must be submitted pursuant to the provisions of this subchapter and shall state clearly and concisely:**

**1. The substance or nature of the rulemaking that is requested;**

**2. The reasons for the request and the petitioner's interest in the request; and**

**3. References to the authority of the agency to take the requested action.**

(d) **The petitioner may provide the text of the proposed new rule, amended rule, or repealed rule.**

(e) **Any filing submitted to the Board that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action, and the filer shall be so notified within 15 days of receipt of the filing.**

(f) **In accordance with N.J.A.C. 1:30-4.1(c), the Board shall file a notice of the petition's receipt with the Office of Administrative Law within 15 days of receipt of the petition.**

(g) **In accordance with N.J.A.C. 1:30-4.2(a), within 60 days following receipt of a petition, the Board shall mail to the petitioner and file with the Office of Administrative Law for publication in the**

New Jersey Register a notice describing the Board's action on the petition in accordance with (h) below.

(h) In accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2(a), the Board shall take one of the following actions on the petition:

1. Deny the petition, in which case the notice of action shall explain the reasons for the denial;

2. Grant the petition and initiate rulemaking within 90 days of granting the petition; or

3. Refer the matter for further deliberations. The Board shall conclude its further deliberations within 90 days of the referral. Upon conclusion of such further deliberations, the Board shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate rulemaking within 90 days of granting the petition. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

(i) In accordance with N.J.A.C. 1:30-4.2(b), a specific period of more than 90 days for further deliberations under (h)3 above and/or to initiate a rulemaking proceeding under (h)2 or 3 above may be agreed upon, in writing, by the petitioner and the Board. An agreement to extend either period or both periods shall constitute an action on the petition for which notice shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

#### SUBCHAPTER 7. CONFERENCES AND SETTLEMENTS

##### 14:1-7.5 Approval of settlements

A settlement includes any agreement between the parties that resolves disputed matters and may end all or part of the case. No settlement shall be deemed approved by the Board unless acted on in accordance with N.J.S.A. 48:2-40.

#### SUBCHAPTER 8. CONTESTED CASE HEARINGS

##### 14:1-8.1 Contested case procedures

(a) Staff shall make the initial determination of whether a matter is a contested case. That determination is subject to review by the Board.

(b) The hearing in any matter which is determined by the Board to be a contested case shall be conducted pursuant to the procedures in the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1, and the Board of Public Utilities Rules of Special Applicability, N.J.A.C. 1:14.

##### 14:1-8.5 Motions to reopen

(a) After [issuance] the effective date of the final decision, a party may file for the reopening of the proceeding. Upon filing by any party of a motion for the reopening of a proceeding, appropriate notice thereof shall be given forthwith by the moving party to all other parties, or their attorneys of record, by service of a copy of the motion for reopening.

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

##### 14:1-8.6 Rehearing, reargument, or reconsideration

(a) A motion for rehearing, reargument, or reconsideration of a proceeding may be filed by any party within 15 days after the [issuance] effective date of any final decision or order by the Board.

1.-2. (No change.)

(b) (No change.)

#### SUBCHAPTER 9. UNCONTESTED CASE PROCEEDINGS

##### 14:1-9.1 Uncontested case proceedings

This subchapter applies only to a matter [which the Board determines] that is determined to constitute an uncontested case. Where the Board determines to hold a hearing in an uncontested case, said hearing shall be conducted pursuant to this section and, in the absence of a specific provision herein, pursuant to the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the Board of Public Utilities Rules of Special Applicability, N.J.A.C. 1:14.

#### SUBCHAPTER 10. COMPLIANCE WITH ORDERS, DECISIONS, AND RECOMMENDATIONS

##### 14:1-10.1 Orders and decisions

Upon [issuance] the effective date of an order or decision of the Board, the party to whom the same is directed must notify the Board on or before the date specified in said order or decision, whether or not compliance has been made in conformity therewith.

##### 14:1-10.4 Answers to communications

Unless otherwise specified, any letter or [telegram] notice from the Board directing investigation of any matter under its jurisdiction must be complied with by the utility and a report received by the Board within 15 days from the date of the letter or [telegram] notice. If circumstances prevent compliance with this [rule] section, the utility must advise the Board, in writing within the above prescribed period, of its inability to comply and the reasons therefor.

(a)

#### BOARD OF PUBLIC UTILITIES

##### Electric Service

**Proposed Readoption with Amendments: N.J.A.C. 14:5**

**Proposed New Rules: N.J.A.C. 14:5-8.7, 9.5, and 9.8**

**Proposed Repeal: N.J.A.C. 14:5-9.2**

Authorized By: Board of Public Utilities, Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, and Dianne Solomon, Commissioners.

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-16, 48:2-25, and 48:3-96.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: EX15010033.

Proposal Number: PRN 2015-029.

Comments may be submitted through May 15, 2015, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us) or on paper to:

Kenneth Sheehan, Secretary  
NJ Board of Public Utilities  
Attn: Docket No. EX15010033  
44 South Clinton Avenue, 9th Floor  
PO Box 350  
Trenton, NJ 08625-0350

The agency proposal follows:

##### Summary

The Board is proposing to readopt with amendments, new rules, and a repeal the provisions of N.J.A.C. 14:5, Electric Service, which are scheduled to expire on August 13, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Electric Service rules delineate the requirements that electric distribution companies (EDCs) subject to the jurisdiction of the Board of Public Utilities (Board) must abide by in such areas as the construction, inspection, and maintenance of a utility plant, the testing and accuracy of electric meters, residential underground extensions, vegetation management and the maintenance and preservation of records and accounts. These rules are necessary in that they relate directly to the provision of safe, adequate, and proper service by regulated New Jersey electric distribution companies. As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The substantive provisions of the chapter proposed for re adoption with amendments, new rules, and a repeal by the Board are summarized as follows:

N.J.A.C. 14:5-1.1 delineates the scope and applicability of Chapter 5 and is proposed for re adoption without amendment. Specifically, this section states that all EDCs are required to comply with the provisions