

facilities will be damaged during excavation or demolition activities, thereby resulting in less danger to excavators and bystanders, fewer service outages, and less property damage. The rules proposed for re adoption will maintain the effectiveness of the One-Call System by maintaining the flow of information among excavators, underground facility operators, and Board staff, so as to help all parties work together to minimize the risk of accidents involving underground facilities.

Economic Impact

The entities regulated by this chapter are excavators, responsible contractors, and underground facility operators. The One-Call rules require excavators or responsible contractors to provide three business days advance notice of an excavation or demolition, and to conduct the excavation or demolition in accordance with requirements designed to protect underground facilities, the excavator and others at the site, and the public. Excavators or responsible contractors must also keep records and report damage or dangerous conditions. These requirements result in minimal, if any, costs to excavators and responsible contractors.

This chapter has always imposed some costs on underground facility operators and will continue to do so, in that they are required to mark-out the location of their underground facilities, maintain records of all mark-outs, and maintain records of damage, accidents, and emergencies related to excavation or demolition. These requirements do impose some moderate costs on underground facility operators. However, these requirements are key to ensuring public health and safety in light of the special dangers posed by excavation or demolition in proximity to underground facilities. In addition, many of these requirements are the minimum required by the Underground Facility Protection Act. This re adoption does not impose any new costs or obligations as no change to the rules is being proposed.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, re adopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. These rules do not exceed any Federal standards. Under the Federal Pipeline Safety Act (Act), 49 U.S.C. §§ 60101 and 60105, certain Federal funding for the State is conditioned on the implementation of a State One-Call program. The Federal Pipeline Safety Act does not require that a state implement a One-Call program. However, if the State implements such a program and other pipeline safety programs, the Act provides funding to the State for these programs.

Jobs Impact

The Board anticipates that the rules proposed for re adoption will have little or no impact on jobs in New Jersey. The rules proposed for re adoption continue existing requirements for which any needed personnel are already in place. The proposed re adoption does 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. 14:2 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 re adoption.

Regulatory Flexibility Analysis

The rules proposed for re adoption at N.J.A.C. 14:2 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. The entities regulated by this chapter are excavators, responsible contractors, and underground facility operators. Although it is impossible to determine specific numbers, most excavators and responsible contractors, and many underground facility operators, are small businesses as defined by the Regulatory Flexibility Act.

The One-Call rules require excavators or responsible contractors to provide three business days advance notice of an excavation or demolition, and to conduct the excavation or demolition in accordance with requirements designed to protect underground facilities, the excavator, and others at the site, and the public. Excavators or responsible

contractors must also keep records and report damage or dangerous conditions. These requirements result in minimal, if any, costs to excavators and responsible contractors.

The One-Call rules require underground facility operators to respond to notices from the One-Call system, perform markouts, provide specifications for supporting underground facilities during excavations, maintain records of all markouts, and maintain records of all damage, accidents, and emergencies related to excavation or demolition. These requirements do impose some moderate costs on underground facility operators. However, because of the importance of these requirements to ensuring public health and safety, the Board has not included special provisions for small businesses.

Compliance with these rules will not require professional services. The requirements in many cases follow well-known national standards, and Board staff conducts ongoing training and outreach to excavators and underground facility operators to ensure that the regulated community understands the rules, and to make compliance as easy as possible.

Neither these rules, nor the Underground Facility Protection Act, provide lesser requirements based upon the size of a business. Since these rules are essential for the protection of the health, welfare, and safety of the public, and for the prevention of damage to public and private property, the Board does not believe that lesser requirements based upon business size are appropriate.

Housing Affordability Impact Analysis

The rules proposed for re adoption 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 regulation of underground facilities operators performing excavation or demolition.

Smart Growth Development Impact Analysis

The Board anticipates that the rules proposed for re adoption 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 regulation of underground facilities operators performing excavation or demolition.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:2.

(a)

BOARD OF PUBLIC UTILITIES Renewable Energy and Energy Efficiency – Aggregated Net Metering Proposed Re adoption of Specially Adopted New Rules: N.J.A.C. 14:8-7

Authorized By: New Jersey Board of Public Utilities, Dianne Solomon, President, Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.
Authority: N.J.S.A. 48:2-1 et seq., in particular 48:2-13 and 48:3-87.
Calendar Reference: See Summary below for an explanation of exception to calendar requirement.
BPU Docket Number: QX14070798.
Proposal Number: PRN 2014-158.

Comments may be submitted through December 5, 2014, by email in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us

or on paper to:

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QX14070798
44 S. Clinton Ave., 9th Floor
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is hereby proposing the readoption of N.J.A.C. 14:8-7, which was adopted by special adoption specifically to comply with a provision of the Solar Act of 2012, now codified at N.J.S.A. 48:3-51 et seq. (Solar Act). The Solar Act prescribed adoption of these rules, which pertain to Aggregated Net Metering, within 270 days of July 23, 2012. The specially adopted new rules became effective on March 21, 2013, and were published in the New Jersey Register at 45 N.J.R. 951(a). The rules are being proposed for readoption to keep the Board's rules in compliance with the statutory mandate. Since this notice of rules proposed for readoption has been filed with the Office of Administrative Law prior to September 20, 2014, the expiration date of this subchapter is extended 180 days to March 19, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2).

In N.J.A.C. 14:8-7, the Board proposes to continue to permit public entity customers of electric distribution companies (EDCs) to install a solar generation system, sized not to exceed the aggregate of the metered annual use of the customer's qualified facilities which are all in the same rate class under the applicable EDC's tariff, to participate in net metering aggregation as authorized by N.J.S.A. 48:3-87e.(4).

Readoption of the Aggregated Net Metering rules would maintain in effect the criteria and requirements the specially adopted new rules. Thus, while the solar facility may be sized to meet the metered annual use of all the qualified facilities, only the site on which the solar generation system is installed may receive retail credit for the solar system's generation up to the usage at that location, and all other qualified facilities shall be billed at the full retail rate, with the public entity customer receiving compensation at the wholesale rate for all generation in excess of the usage at the host location.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2 pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption will have a positive social impact for New Jersey. By adhering to the language of the enabling statutory provision, the criteria set forth in these rules will ensure that aggregated net metering is available to those qualified customers for which the Legislature intended to provide the benefits of aggregated net metering, and only to those customers. While the statute provides that all costs which are caused by a particular facility shall be billed to the qualified customer, the law also guarantees that any additional incremental costs shall be recovered in a manner to be determined by the Board. Such costs are then born by the ratepayer. The limitation of these additional benefits to the entities who meet the criteria in the statute will, therefore, decrease the cost to ratepayers.

Economic Impact

The rules proposed for readoption will update the rules to bring them into compliance with P.L. 2012, c. 24. The rules proposed for readoption are not anticipated to have a significant economic impact because only the incremental costs incurred by the EDCs to implement net metering aggregation may be assessed, and only certain public entities are authorized to take advantage of aggregated net metering to reduce their energy bills for facilities other than the host location of the solar facility.

In the long term, the Board's programs for developing solar energy generation are anticipated to act as a spur to development of solar energy markets, thus reducing use of environmentally damaging fossil fuels. Ultimately, this will have an important beneficial economic impact on the State as a whole.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The Aggregated Net Metering rules have no Federal analogue and are 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 incorporates or refers to Federal law, standards, or 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 proposed amendments.

Jobs Impact

The rules proposed for readoption are designed to enhance the activity of the solar market in New Jersey. To the extent that the readopted rules result in additional solar facilities being built, the rules are anticipated to have a positive impact on jobs in the development, construction, and operation of solar energy facilities.

Agriculture Industry Impact

The Board does not expect the rules proposed for readoption to have a direct material effect on the agriculture industry in New Jersey. To the extent that the rules result in the stimulation of the solar energy market, a greater number of solar energy facilities will benefit the agriculture industry, if increased solar electric generation displaces fossil-fueled generation that is linked to acid rain, global warming, and other air pollution that can harm agricultural crops.

Regulatory Flexibility Statement

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. The rules proposed for readoption do not impose reporting, recordkeeping, or other compliance requirements on small businesses operating renewable electric generation facilities in New Jersey or in the rest of the PJM Interconnection LLC (PJM) region. Accordingly, no regulatory flexibility analysis is required.

Housing Affordability Impact Analysis

The impact of the rules proposed for readoption on affordable housing in New Jersey is unknown at this time, because no facilities have been built under the relatively brief time period since the special adoption of these rules. However, the Board does not anticipate that the impact will be significant. If a municipality elects to pursue aggregated net metering, the financing mechanism adopted by that municipality is unlikely to have any relation to the affordability of housing. The prospective solar facilities built as a result of aggregated net metering may in the future have some effect on electricity rates, but would not affect the availability or price of housing. The rules address the requirements which must be met in order for a qualified public customer to pursue solar energy generation through aggregated net metering and do not affect housing prices or the housing market.

Smart Growth Development Impact Analysis

The Board does not expect the rules proposed for readoption to have an 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 in New Jersey because the rules address the requirements which must be met in order for a qualified public customer to pursue solar energy generation through aggregated net metering.

Full text of the specially adopted new rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:8-7.

TRANSPORTATION

(a)

THE COMMISSIONER

Administration, Organization, Records Management and Information Requests

Proposed Amendments: N.J.A.C. 16:1A-1.2, 2.1, 3.1, 4.2, 4.3, 4.4, 4.5, and 4.6

Proposed Repeal: N.J.A.C. 16:1A Appendix

Authorized By: Joseph D. Bertoni, Acting Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-1, 27:1A-6, and 52:14B-1 et seq., particularly 52:14B-3 and 4.