

required for certification, the Board shall credit whatever portion of the military education, training, or experience that is substantially equivalent towards meeting the requirements under this subchapter for the issuance of a certificate of registration.

(e) Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

(a)

**DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF SOCIAL WORK EXAMINERS
Credit Towards Licensure for Education, Training,
and Experience Received While Serving as a
Member of the Armed Forces**

Adopted New Rule: N.J.A.C. 13:44G-4.6

Proposed: October 20, 2014, at 46 N.J.R. 2097(a).

Adopted: February 10, 2015, by the State Board of Social Work Examiners, Dawn Apgar, Chair.

Filed: August 21, 2015, as R.2015 d.156, **without change**.

Authority: N.J.S.A. 45:15BB-11 and P.L. 2013, c. 49.

Effective Date: September 21, 2015.

Expiration Date: July 16, 2022.

Summary of Public Comment and Agency Response:

The official comment period ended December 19, 2014. In order to ensure compliance with P.L. 2013, c. 259, the comment period was extended through January 4, 2015. The Board received one comment from Debra L. Wentz, Ph.D., Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.

COMMENT: The commenter supports the new rule.

RESPONSE: The Board thanks the commenter for her support.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal requirements or standards applicable to the adopted new rule.

Full text of the adopted new rule follows:

13:44G-4.6 Credit towards licensure or certification for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure or certification under N.J.A.C. 13:44G-4.1, 4.2, and 4.3 may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure or certification.

(b) The Board shall issue a license or certificate to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, education, and experience the applicant received in the Armed Forces, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, education, and experience required for licensure or certification under N.J.A.C. 13:44G-4.1, 4.2, or 4.3.

i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and/or training completed while in the military shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent

in level, scope, and intent to the program required for licensure or certification under N.J.A.C. 13:44G-4.1, 4.2, or 4.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of social work that have been evaluated by the American Council on Education for substantial equivalence to civilian social work education; and

3. The applicant complies with all other requirements for licensure or certification, including successful completion of the applicable licensing examination.

(c) It is the applicant's responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure or certification, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44G-4.1, 4.2, or 4.3 for the issuance of the license or certification.

(e) Satisfactory evidence of such training, education, and experience shall be assessed on a case-by-case basis.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Rules of Practice

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

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

Proposed: March 16, 2015, at 47 N.J.R. 626(a).

Adopted: August 19, 2015, by the New Jersey Board of Public Utilities, Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, Dianne Solomon, and Upendra J. Chivukula, Commissioners.

Filed: August 19, 2015, as R.2015 d.152, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3), **but with the proposed amendments to N.J.A.C. 14:1-1.3, 8.1, and 9.1 not adopted**.

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

BPU Docket Number: AX15010031.

Effective Dates: August 19, 2015, Readoption;

September 21, 2015, Amendments and New Rules.

Expiration Date: August 19, 2022.

Summary of Public Comments and Agency Responses:

Andrew D. Hendry on behalf of the New Jersey Utilities Association (NJUA);

Maura Caroselli, Esq. on behalf of the New Jersey Division of Rate Counsel (Rate Counsel); and William D. Smith, Esq. on behalf of Verizon New Jersey Inc. (Verizon) submitted timely comments on the notice of proposal.

N.J.A.C. 14:1-1.3; 8.1, and 9.1

COMMENT: Rate Counsel opposes the proposed amendment to the definition of "presiding officer." Rate Counsel asserts that if adopted, the amendment to the definition in N.J.A.C. 14:1-1.3 would "allow a 'presiding officer' to preside over contested cases" and "would allow a member of Board staff to be designated as a presiding officer and conduct a hearing in a contested case." The commenter contends that permitting Board staff members to appear as presiding officers in contested matters is contrary to prevailing case law and is contrary to the 1978 amendments to the Administrative Procedure Act (APA), N.J.S.A. 52:14F-1 et seq. The commenter states that New Jersey Courts and the Legislature have been clear that an inherent bias or conflict exists when agency employees sit as hearing officers and adjudicate contested matters, and therefore, the

proposed amendment to N.J.A.C. 14:1-1.3 directly conflicts with New Jersey statutes and case law and should not be adopted.

Additionally, Rate Counsel opposes the proposed amendment to N.J.A.C. 14:1-8.1(a) and the corresponding change to N.J.A.C. 14:1-9.1 because delegating to Board staff the decision of whether the case is contested conflicts with the New Jersey Supreme Court's interpretation of the APA and an OAL rule. The commenter asserts that it is the agency head, in this case the Board itself, that determines whether a case is contested and that there is no basis in the APA to delegate that authority to the BPU staff. The commenter believes that if this proposed amendment is adopted, the decision of whether the case is contested would be made by Board staff instead of the Board itself. The commenter believes that this practice would not allow the Board to consider all the relevant facts and issues when making that determination and is therefore contrary to applicable statutory and regulatory law. (Rate Counsel)

RESPONSE: The Board disagrees with the commenter's interpretation of the proposed amendments. However, irrespective of the Board's disagreement with these arguments, it does recognize that adoption of these proposed amendments could cause unnecessary confusion. Therefore, in the interest of clarity, the Board has determined not to adopt the amendments. The existing definition of "presiding officer" is readopted without change as are N.J.A.C. 14:1-8.1(a) and 9.1.

N.J.A.C. 14:1-5.6(k)

COMMENT: Rate Counsel is not opposed to the proposed changes to this section, but proposes that the Board add an additional subsection. The commenter recommends that conveyed properties where environmental remediation of manufactured gas plants (MGPs) has occurred should be subject to N.J.A.C. 14:1-5.6(a), which requires the utility to file a formal petition to the Board to obtain approval for the proposed sale or conveyance of the property and not qualify under the exemptions in N.J.A.C. 14:1-5.6(c), (d), or (e) for properties conveyed in the "ordinary course of business" as explained at N.J.A.C. 14:1-5.6(k). The commenter believes that under the current and proposed rule, MGP property can be exempted from the requirements regarding petition to the Board and inaccurately qualify as a conveyance within the "ordinary course of business" if it was conveyed for less than \$500,000 or if it qualifies under another technical exemption of N.J.A.C. 14:1-5.6.

The commenter believes that the conveyance of this property is not within the "ordinary course of business," which only requires utility notice of the conveyance and not a petition, because the cost to remediate the property is subsidized by ratepayers and that any transference of the property, even if it is for less than the \$500,000 threshold specified by N.J.A.C. 14:1-5.6(d), must be subject to petition to the Board and Rate Counsel for approval to ensure that the sale is appropriately reflected as a credit to ratepayers. Finally, the commenter believes that Rate Counsel should be notified prior to the conveyance of MGP properties since the utility retains potential liability for additional remediation or other environmental matters even after the property is sold. MGP properties could contain residual contamination that makes conveyance for some uses inappropriate.

Rate Counsel proposes that the following additional language noted in bold be added to N.J.A.C. 14:1-5.6(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, **or for property which was the site of a remediated manufactured gas plant** shall conform to the provisions of"

Rate Counsel also proposes an additional paragraph (a)16, which would read "**16. A copy of all petitions regarding property that was a remediated manufactured gas plant shall be submitted to the Division of Rate Counsel.**"

RESPONSE: While the Board understands Rate Counsel's concerns about the sale of property that has been remediated using ratepayer funds, since all property that is subject to this section is utility property that has been funded by ratepayers, the Board does not agree that any special treatment is required. Accordingly, the Board declines to adopt the additional amendments.

COMMENT: Verizon appreciates the efforts of the Board to update and streamline the rules. However, the commenter believes that the Board should take another step in that regard and requests the Board make

limited modifications to N.J.A.C. 14:1-5.6, Petitions for the approval of the sale or lease of property, to streamline the procedures for certain real estate transactions of companies subject to an alternative regulatory plan.

The commenter states that its proposed modifications to the rule would facilitate efficient completion of real estate transactions made in the ordinary course of business without affecting the purpose of the rule, which is geared to companies subject to rate-of-return regulation. The commenter asserts that such a targeted and modest change would further the objectives of both the executive and legislative branches of New Jersey government, which have tasked regulatory agencies, including the Board, with the elimination of unnecessary regulation wherever possible.

The commenter believes that companies should be allowed to utilize or dispose of excess real estate space in an efficient manner, without complying with unnecessary rules that frustrate and lengthen the marketing process for these excess and unused properties. Additionally, given the significant technological and market changes that have occurred, the disposition of excess and unused property is in the "ordinary course of business" for a competitive company such as Verizon. Thus, the commenter believes that such transactions should fit within the statutory exception from Board approval that applies for transactions completed in the "ordinary course of business."

The commenter states that memorializing that such transactions meet the "ordinary course of business" exception can be accomplished with a few simple changes, including the addition of a new N.J.A.C. 14:1-5.6(k)2 as shown below (additions to proposal in bold; deletions in brackets):

(c) In addition to any other transactions not requiring approval or which on their merits may be deemed to be in the ordinary course of business **as set forth in (k)1 through 3 below**, any lease, grant or permission by a utility to occupy or use its real property or any interest therein which is terminable at the option of the utility upon notice not to exceed 90 days, and any release, by quit claim deed or otherwise by any utility of any lease, easement, or permission to occupy or use real property, shall be deemed to be in the ordinary course of its business. Neither notice to the Board nor petition for its approval shall be required with respect [thereto] **to any transaction deemed to be in the ordinary course of business.**

... (k) For the purposes of this subchapter, the term "ordinary course of business" shall include, in addition to any other transaction 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;

2. **Any transaction involving the sale or lease of the real property of a utility not subject to rate-of-return regulation done in connection with a consolidation of utility operations where all or substantially all of the property is no longer useful to the utility, and/or employees of the property to be sold or leased are transferred to one or more other properties owned or leased by the utility or continue to be employed at the property to be sold or leased pursuant to a leaseback agreement or other occupancy agreement with the transferee; or**

[2.] 3. 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.

[Verizon did not include the Board's proposed new paragraph (k)3 in its comment.]

(Verizon)

RESPONSE: The Board notes that these rules only apply to petitions for the sale or lease of land that is otherwise required by law. To the extent Board approval is no longer required by law, through a change in

regulatory status, these rules would apply accordingly. Absent such a change, the Board believes that an additional modification is not required and declines to adopt the proposed change.

N.J.A.C. 14:1-5.16

COMMENT: Rate Counsel agrees that this section permitting interested parties to petition for rulemakings should be added to the chapter, but the Board's rule does not include the new language proposed by the OAL to the companion rule, at N.J.A.C. 1:30-4.1, which allows petitions to be filed, in addition to hard copy, by e-mail and requires agencies to publish on its website each petition for rulemaking. The OAL's notice of proposal appeared in the November 17, 2014, New Jersey Register, 46 N.J.R. 2221(a) but has not yet been adopted. The commenter states that the language proposed to be added at the end of N.J.A.C. 1:30-4.1(a) is as follows: "Such petition may be submitted to an agency through mail, e-mail, or, if designated to receive message, electronic mailing list or through any other means." The commenter also requests that the Board add additional language to N.J.A.C. 14:1-5.16(a) to read "A copy of each petition for rulemaking shall be filed by mail or hand-delivery at the Division of Rate Counsel, 140 E. Front St., 4th Floor, P.O. Box 003, Trenton, New Jersey 08625." (Rate Counsel)

RESPONSE: The Board notes that following receipt of the comment, the adoption of the OAL rule proposal noted by Rate Counsel was published in the June 15, 2015 New Jersey Register at 47 N.J.R. 1311(b). The adopted language is similar to N.J.S.A. 52:14B-4(f), however, it adds, "if designated to receive messages" as modifying "electronic mailing lists." N.J.S.A. 52:14B-4(f) specifically leaves to agency rulemaking "the form for the petition and the procedure for consideration and disposition of the petition." The Board does not currently accept the filing of any petitions electronically or by e-mail, and to do so solely for rulemaking petitions would be impracticable. However, the Board continues to investigate systems it could implement to permit such filings in the future.

Finally, the Board declines to require that petitions for rulemaking be filed with Rate Counsel. Adopted new N.J.A.C. 14:1-5.16 is consistent with OAL rules for petitions for rulemaking found at N.J.A.C. 1:30-4, which only require that the agency, in this case the Board, take action. If the Board does grant a petition for rulemaking, Rate Counsel, along with all other interested parties and members of the public, will be able to comment on the rule proposal. The Board's rulemaking process is already subject to all of the provisions of N.J.A.C. 1:30, and the Board has an established process for filing of petitions, which is set forth in N.J.A.C. 14:1-5. The Board also notes that all petitions for rulemaking and the subsequent notices have been published on the Board's website (<http://www.state.nj.us/bpu/agenda/rules/>) since the 2014 amendments to the APA which Rate Counsel references in its comment, took effect.

N.J.A.C. 14:1-7.5

COMMENT: NJUA urges that the Board reconsider proposed new N.J.A.C. 14:1-7.5, Approval of settlements. The commenter believes that existing rules already set forth the processes related to settlement agreements and the proposed new rule may cause confusion. The commenter is concerned that, without modification, this rule may be construed as expanding the types of "settlements" that must be approved by Board order, rather than simply codifying current procedure. In fact, it may be construed as requiring a Board order for each and every settlement of a "disputed matter." Further, the term "disputed matter" is not defined and thus may be read broadly to include informal matters or matters that do not typically require Board action.

The commenter does not believe it is the Board's intent to expand the universe of what requires a Board order. Thus, the commenter recommends amendment to the proposed new rule, which essentially states that the new rule does not expand the types of settlement requiring a Board order. Accordingly, proposed new N.J.A.C. 14:1-7.5 would read as follows (deletions indicated in brackets and additions indicated in boldface):

A settlement includes any agreement between [the] parties that resolves disputed matters and may end all or part of the case. No **party may assert that a settlement** [shall be] is deemed approved by the Board unless **that settlement** is acted on in accordance

with N.J.S.A. 48:2-40. **This section shall not be construed to provide that the settlement or disposition of any informal complaint, including but not limited to, the type described in N.J.A.C. 14:1-5.13, or any matter or case that has been previously or simultaneously withdrawn by any party, requires Board approval by the issuance of a Board order.**

(NJUA) Verizon supports the comments and proposed amendments requested by the NJUA.

RESPONSE: The Board believes that based upon NJUA's comment, that the proposed new rule could cause unnecessary confusion. Therefore, the Board is adding language upon adoption to clarify that the section shall not apply to withdrawn petitions or informal complaints. The Board believes that this additional language addresses the primary concern of the commenter.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 requires 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 readopted with amendments and new rules.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:1.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[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 ***[to conduct]* *as*** a hearing ***examiner*** in ***[a]* *an uncontested*** case.

14:1-1.5 Requesting Board action on a complaint

(a) All 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 acted on by the Board within 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 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 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 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, 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 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.

(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 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;

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 rooftop 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 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, 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. ***This section shall not apply to withdrawn petitions or informal complaints.***

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 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 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 *[that is determined]* ***which the Board determines*** 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 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 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 notice. If circumstances prevent compliance with this 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

Notice of Readoption

Nuclear Plant Decommissioning Cost and Trust Fund Review

Readoption: N.J.A.C. 14:5A

Authority: N.J.S.A. 48:2-13 and 48:2-21.

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

BPU Docket Number: EX15050630.

Effective Date: August 19, 2015.

New Expiration Date: August 19, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 14:5A will expire on October 7, 2015. The rules provide procedures to ensure that there will be adequate funds for the proper decommissioning of nuclear power plants owned by New Jersey utilities. Specifically, the rules require the filing of periodic update reports regarding trust funds held by a utility to cover decommissioning costs.

A summary of the subchapters of N.J.A.C. 14:5A follows:

N.J.A.C. 14:5A-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 14:5A-1.2 provides definitions for key words and terms used in the chapter.

N.J.A.C. 14:5A-2.1 sets forth the requirement that New Jersey electric utilities with an ownership interest in a nuclear plant file a Decommissioning Cost Update with the Board. In addition, the section sets forth details regarding the timing and format of the filing.

N.J.A.C. 14:5A-2.2 sets forth the elements that must be included in the Decommissioning Cost Update.

N.J.A.C. 14:5A-2.3 allows affected electric utilities to jointly file certain information in order to avoid the filing of duplicative information.

N.J.A.C. 14:5A-3.1 requires public notice of the filing of a Decommissioning Cost Update.

N.J.A.C. 14:5A-3.2 provides for a public comment period on the Update, and for formal Board review in certain cases.

N.J.A.C. 14:5A-3.3 provides for party status for the Department of Environmental Protection (DEP) and the Division of Rate Counsel (Rate Counsel), and for a motion for intervention by others.

N.J.A.C. 14:5A-3.4 provides for discovery in any formal proceeding initiated under this chapter.

N.J.A.C. 14:5A-3.5 provides for a public hearing as part of a formal proceeding, and evidentiary hearings as determined necessary by the Board.

N.J.A.C. 14:5A-3.6 requires findings by the Board after any hearings.

N.J.A.C. 14:5A-4.1 sets forth requirements for the hiring of investment managers and trustees for decommissioning trust funds.

N.J.A.C. 14:5A-4.2 requires the filing of annual reports regarding the decommissioning trust fund.

N.J.A.C. 14:5A-4.3 requires the distribution of the annual decommissioning trust fund reports to DEP, Rate Counsel, and the municipality in which the plant is located.

The Board of Public Utilities has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.