

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:44K were scheduled to expire on February 22, 2023. The rules establish standards for the licensing and regulation of occupational therapists and occupational therapy assistants.

Subchapter 1 addresses general provisions, including definitions and provisions addressing occupational therapy services performed for 60 days without a license by an occupational therapist or occupational therapy assistant licensed in another state. Subchapter 2 addresses eligibility requirements for occupational therapists and occupational therapy assistants. Subchapter 3 addresses licensing procedures for occupational therapists and occupational therapy assistants. Subchapter 4 addresses temporary licenses. Subchapter 5 addresses the scope of practice of occupational therapists and occupational therapy assistants, delegation of occupational therapy services, use of physical agent modalities, and supervision of the use of physical agent modalities by an occupational therapy assistant.

Subchapter 6 addresses supervision of occupational therapy assistants and temporary licensed occupational therapists and the responsibilities of licensed occupational therapists who act as supervisors. Subchapter 7 addresses telemedicine and telehealth. Subchapter 8 addresses the general obligations of licensees, including service of process; changes of name and address; unlicensed practice; sexual misconduct; license renewal, reactivation, and reinstatement; and claims submission forms. Subchapter 9 addresses business practices and professional conduct, such as display of certain notices, financial arrangements, professional interactions with clients, termination of services, and prohibition of excessive fees. Subchapter 10 addresses client records, including preparation and maintenance of records; use of a computer to prepare client records; and release of client records. Subchapter 11 addresses fees charged by the Occupational Therapy Advisory Council.

The Acting Director of the Division of Consumer Affairs, in consultation with the Occupational Therapy Advisory Council, has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 45:1-15 and 45:9-37.51, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without change and shall continue in effect for a seven-year period.

(a)

DIVISION OF CRIMINAL JUSTICE

Notice of Readoption

Body Armor Replacement Fund Program

Readoption: N.J.A.C. 13:80A

Authority: N.J.S.A. 52:17B-4.4.

Authorized By: Pearl Minato, Director of the New Jersey Division of Criminal Justice.

Effective Date: January 18, 2023.

New Expiration Date: January 18, 2030.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:80A were scheduled to expire on February 18, 2023. These rules establish standards for the awarding of initial and successive grants for body armor from the Body Armor Replacement Fund Program, enacted pursuant to the Body Armor Replacement Fund Act. The rules also establish guidelines for the receipt of program funds, including application procedures for local law enforcement agencies seeking vest replacement grant funding, as well as procedures to ensure grantee accountability.

The Division of Criminal Justice has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required at N.J.S.A. 52:14B-5.1. Therefore, pursuant to N.J.S.A. 52:17B-4.4, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendment and shall continue in effect for a seven-year period.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES

Electric Service

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

Adopted New Rule: N.J.A.C. 14:5-2.10

Proposed: August 15, 2022, at 54 N.J.R. 1584(a).

Adopted: January 11, 2023, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Robert Gordon, and Dr. Zenon Christodoulou, Commissioners.

Filed: January 17, 2023, as R.2023 d.022, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-16, 48:2-25, and 48:3-96.
BPU Docket Number: EX21091121.

Effective Dates: January 17, 2023, Readoption;
February 21, 2023, Amendments and New Rule.

Expiration Date: January 17, 2030.

Summary of Public Comments and Agency Responses:

The Board of Public Utilities (“Board” or “BPU”) received written comments from: Atlantic City Electric Company (ACE); Jersey Central Power and Light Company (JCP&L); New Jersey Division of Rate Counsel (RC); and Public Service Electric and Gas Company (PSE&G).

SUBCHAPTER 1. SCOPE AND APPLICABILITY

N.J.A.C. 14:5-1.2 Definitions

1. COMMENT: Further clarification is needed regarding the change in the definition of “major event.” It is unclear based on the definition whether “48-hour period” refers to the first 48 hours of a major event or to any subsequent 48-hour period during the major event. (PSE&G)

RESPONSE: The change in this definition creates a window of time, within a 48-hour period, in which the number of customers experiencing outages can reach 10 percent or more in an operating area to trigger a major event resulting from weather conditions beyond the control of the electric distribution company (EDC). Once this 10 percent threshold is met, subsequent 48-hour periods exceeding this threshold would not trigger a new major event for the same event. However, in the case of back-to-back storms, if the second event reaches the 10 percent of customers in an operating area in 48 hours for new customer outages, not including existing outages from a prior storm, this would trigger a new major event.

2. COMMENT: “Interruption, extended” is defined as “an interruption of electric service to one or more customers for a period of at least 24 hours.” PSE&G notes that it internally defines an extended interruption as one that exceeds five minutes and its indices are based on this definition. (PSE&G)

RESPONSE: “Interruption, extended” was added and defined for its use exclusively at N.J.A.C. 14:5-8.11(e) and is not used anywhere else in this chapter. PSE&G’s internal use of the term “extended interruption” is identical to the definition of “Interruption, sustained,” which remains unchanged at N.J.A.C. 14:5-1.2.

3. COMMENT: The definition of “AMI” should be consistent in all material respects with the Federal Energy Regulatory Commission (FERC) definition, which states:

“As in past reports, advanced metering is defined as a metering system that records customer consumption (and possibly other parameters) hourly or more frequently and provides for daily or more frequent transmittal of measurements over a communication network to a central collection point. The terms advanced metering and advanced metering infrastructure (or AMI) are used interchangeably throughout this report.”

The definition proposed by New Jersey Board of Public Utilities implied that there is a two-way communication that can send data between the customer and the utility. This definition is not accurate and

communication is more of a one-way communication to the customer. If this definition is unaltered, there could be a misinterpretation to include other communication devices connected through the meter or utility that pass traffic both ways. (ACE)

RESPONSE: The Board declines to change its definition to conform with FERC's definition, as it does not materially affect the use of the term in the chapter. The Board will modify the definition upon adoption to clarify that the two-way communication is between the utility and the customer's meter, rather than with the customer. While the vast majority of communication will occur from the meter to the utility, the utility's ability to address the meter and potential future use cases make the inclusion of two-way communication in the definition consistent with the Board's understanding of AMI.

4. COMMENT: Rate Counsel supports the proposed amendment to the definition of "benchmark," to reference the previous five-year average, rather than the period from 2010 through 2014. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

5. COMMENT: Rate Counsel does not support the proposed amendment to paragraph 1 in the definition of a "major event," which would consider outages occurring within a 48-hour period. This would allow an EDC to add up the number of customer outages during a 48-hour period in order to reach the 10 percent threshold, even if less than 10 percent of the EDC's customers were simultaneously without service at any given time. Rate Counsel suggests a "major event" should only be classified as when 10 percent or more of an EDC's customers are without service at the same time and during the same event. Rate Counsel recommends amending the first sentence of "major event" to "a sustained interruption of electric service from conditions beyond the control of the EDC, which may include, but is not limited to, thunderstorms, tornadoes, hurricanes, heat waves, or snow and ice storms, which affect at least 20,000 customers, or 10 percent of the customers, whichever is greater, in an operating area simultaneously within a 24-hour period." (RC)

RESPONSE: The current definition does not include a time frame and has allowed EDCs to classify a "major event" for periods longer than 48 hours. A shorter duration was discussed in the stakeholder process, but would not have accounted for large consequence events that can occur over a longer period of time, such as accumulated outages resulting from an ice storm. Forty-eight hours was considered a reasonable compromise to address the timing aspect of classifying a major event.

6. COMMENT: Rate Counsel recommends the Board amend paragraph 4 of the definition of "major event" to require EDCs to report Customer Average Interruption Duration Index (CAIDI) and System Average Interruption Frequency Index (SAIFI), both including and excluding outages, during a "major event." Rate Counsel also recommends amending paragraph 4 of the definition of a "major event," such that System Average Interruption Duration Index (SAIDI) and Customers Experiencing Multiple Interruptions (CEMI) are added to the reliability parameters that each EDC must track, calculate, and report. In Rate Counsel's suggested amendment, the language in brackets is to be deleted and the underlined language is to be added to the definition. Rate Counsel's suggested amendments, are as follows: N.J.A.C. 14:5-1.2: "Interruptions occurring during a major event in one or more operating areas shall [not be] included in the EDC's CAIDI, [and] SAIFI, SAIDI and CEMI calculations of those affected operating area(s). EDCs shall report CAIDI, SAIFI, SAIDI and CEMI calculations that both include and exclude interruptions occurring during major events. [However] Additionally, interruption data for major events shall be collected, according to the reporting requirements outlined in N.J.A.C. 14:5-8.9 and 8.10." (RC)

RESPONSE: The Board declines to make these changes to the "major event" definition, as these metrics are not used in the chapter. SAIDI and SAIFI are components of the CAIDI calculation; so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits.

7. COMMENT: Rate Counsel recommends adding the definition of SAIDI and CEMI to the definitions at N.J.A.C. 14:5-1.2. (RC)

RESPONSE: The Board declines to add these definitions, as they are not terms used in the chapter. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation which does not provide the necessary information to effectively address problem circuits.

8. COMMENT: Rate Counsel opposes the proposed amendment to paragraph 4 of the definition of a "major event," which would allow an EDC that provides mutual aid to another EDC or utility to request Board permission to exclude its sustained interruptions from its CAIDI and SAIFI calculations, "if the aid provided affected the EDC's ability to respond to those interruptions." According to Rate Counsel, mutual aid should be provided to other utilities, when possible and prudent, but not to the detriment of another utility's own customers. (RC)

RESPONSE: The current definition has no limitations on an EDC's ability to request the exclusion of sustained interruptions from its CAIDI and SAIFI calculations when providing mutual aid. The definition was created, so that if an EDC provided mutual aid to other utilities, they would not be punished if they subsequently experience outages with a depleted staff. The proposed amendment reaffirms this by requiring the EDCs to verify whether a given restoration effort took longer due to staff being deployed for mutual aid.

9. COMMENT: JCP&L states that the proposed amendments to "major event" definition are not required as the Board already has the ability within the current regulations to create and provide any changes in regard to major event reporting. (JCP&L)

RESPONSE: The proposed amendments to the "major event" definition were created in order to deal with inconsistencies in major event report filings and substantial periods of time designated as major events. The exclusion of these events from the CAIDI and SAIFI benchmarks necessitates a strict definition to ensure the maximum number of days are included in the benchmarks.

10. COMMENT: JCP&L states that significant EDC practices and reporting processes have developed over the last two decades, and suggests if any changes are necessary, they should be made so as to not create anomalies in measured performance or should otherwise provide for an appropriate transition period. (JCP&L)

RESPONSE: The proposed amendments to the "major event" definition should not create anomalies in EDC practices and measured performance. These changes establish definitive start and end times for major events and further clarifies the intent of the original rules. Additionally, the deadline for filing the major event report has been extended from 15 to 20 days, which is intended to give the EDCs more time to process information post event.

11. COMMENT: JCP&L opposes the proposed addition to paragraph 1 of the definition of a "major event" and recommends adding the language "... during or as a result of the event or successive events." JCP&L suggests that the proposed language does not consider that extended storm events, or successive storm events, may persist more than 48 hours and impact an EDC's operations. JCP&L also adds that the proposed language is fundamentally inconsistent with the very nature of a large weather event, itself. JCP&L states that much of the activities associated with major events will begin before the weather event arrives and, therefore, during this time the utility is not conducting normal operations. JCP&L further recommends adding "the major event shall be deemed to begin when the conditions initiating the event have entered, have begun to occur in, or have begun to impact, the operating area. The major event shall be deemed to have concluded when the EDC's system is restored to its normal configuration after the event has exited, or has ceased to impact, the operating area, unless successive, intervening events occur." (JCP&L)

RESPONSE: The proposed amendment is defined to limit the combining of multiple storms into one large major event. The proposed amendment also contains a provision for an explanation if an EDC believes the proposed time limit should not apply for a given situation and the justification for this consideration would be explained in the major event report, as required at N.J.A.C. 14:5-8.9(a)14.

12. COMMENT: JCP&L contends that the additional proposed language in paragraph 1, “the duration of the major event shall be limited to the conditions initiating the event and conclude when the final customer outage is restored from the initiating event” does not recognize that the circumstances surrounding each specific storm are unique and are not necessarily predisposed to convenient and discrete definitions. (JCP&L)

RESPONSE: The proposed amendment is defined to limit the combining of multiple storms into one large major event. The proposed amendment also contains a provision for an explanation if an EDC believes the proposed time limit should not apply for a given situation and the justification for this consideration would be explained in the major event report, as required at N.J.A.C. 14:5-8.9(a)14.

13. COMMENT: Historically, “storm mode” activities included pre-event, during the event, and post-event activities. JCP&L argues that during a major storm event, the EDC is not conducting normal operations and the changes to the definition indicate that the BPU’s expectations are that the activities associated with major events will begin before the weather event arrives and ends, after the emergency repairs are addressed, and circuit sweeps are performed. (JCP&L)

RESPONSE: The proposed amendment and existing definition do not address “storm mode” or pre-event and post-event activities. Preparing for a storm, while considered best practice, does not alleviate the responsibility to provide reliable service prior to a storm’s arrival. The changes in language are designed to address the beginning and end of the major event based on outages.

14. COMMENT: JCP&L opposed the proposed language at paragraph 3 to limit the duration of declared states of emergencies for purposes of their qualification as a major event to end after a state of emergency is “concluded upon the restoration of all customers affected by the initial event” and contends that it is not warranted, as state of emergency declarations are issued in advance, based on early or broader forecasts, that may or may not materialize. JCP&L argues that declared states of emergency can, and do, have an impact on an EDC’s operations and, even when an event is less impactful than expected, the mobilization and demobilization of resources in preparation for the event may constrain the availability of resources to conduct normal operations, including restoring service to customers. JCP&L recommends adding the language, “the event is concluded upon the end of the state of emergency or when the EDC’s system is restored to its normal configuration and normal operations have re-commenced.” (JCP&L)

RESPONSE: The Board made the proposed amendment to address situations in which the Governor may extend a state of emergency for reasons other than those requiring an active emergency response. Ending a state of emergency is at the Governor’s discretion and may extend beyond the completion of the EDCs’ restoration efforts. The Board declines to make the recommended change due to the vague nature of the phrase “restored to normal configuration and normal operations have recommenced.” While it can take days, weeks, or months, after a major event to truly reach “normal configuration and normal operations,” extending a major event beyond restoration of affected customers does not meet the intention of the existing definition, or the definition as amended.

15. COMMENT: JCP&L opposes the proposed language at paragraph 4, as EDCs across the country rely on mutual assistance to aid in restoration efforts during major events and New Jersey’s EDCs must be willing to continue extending such support in order to expect aid in return when major events occur within the State. JCP&L states that the Board’s current regulations have recognized the need for mutual assistance and have supported providing aid with the inclusion of the provision of mutual aid as a separate major event category without conditions. JCP&L believes that the courtesy to not place conditions or qualifications on the definition of a major event as it relates to the provision of mutual aid serves the interests of the State and all electric utility customers by allowing New Jersey’s EDCs to provide support without concern for the potential impact it may have on their reliability performance. JCP&L further believes that the “affected” standard is highly subjective and does not provide clarity or certainty as to the circumstances that are determinative with respect to whether an EDC’s operations were affected significantly to warrant an exclusion. JCP&L recommends that the Board delete the proposed language and not make any changes at paragraph 4, recognizing that the Board remains the ultimate arbiter of whether this

category of major event qualifies for exclusion from CAIDI and SAIFI calculations. (JCP&L)

RESPONSE: The Board declines to make the requested change, as the proposed language does not limit or deny an EDC from providing mutual aid. The current language allows each EDC to request exclusion of outages from reliability when providing mutual aid, even if that aid would in no way affect the EDC’s performance. While the Board recognizes that New Jersey’s EDCs must be willing to provide aid in order to receive it, the Board has no wish to prevent this. The proposed language points to the intended purpose of the existing definition, which is not designed to punish EDCs for outages that may occur when understaffed due to providing aid.

SUBCHAPTER 2. PLANT

N.J.A.C. 14:5-2.1 Plant Construction

16. COMMENT: Rate Counsel supports the proposal to remove the date of a specific issuance of the National Electrical Safety Code (NESC) and to insert the current web address to access the NESC. However, Rate Counsel recommends that the document linked through the website is clearly and specifically identified to allow the public to search for the document independent of the website link in the event the website link is changed, not working, or removed prior to the next rule update. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment. The name of the document is the National Electric Safety Code (NESC) and it is currently included at N.J.A.C. 14:5-2.1(a)3.

N.J.A.C. 14:5-2.9 Inspection and Repair of Street Lights

17. COMMENT: Rate Counsel supports the proposed amendment to the caption of this section to match its content. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

N.J.A.C. 14:5-2.10 Inspection of Property

18. COMMENT: Rate Counsel supports the proposal to add this new section requiring that any equipment removed from the system for any reason be inspected as to safety and serviceability before being reinstalled in the same or other location. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

SUBCHAPTER 4. METERS

N.J.A.C. 14:5-4.1 Testing of Electric Meters

19. COMMENT: Rate Counsel recommends amending this section to cross-reference the definition of a “meter,” which is not defined in the existing Board rules. Rate Counsel recommends that the definition of a “meter” reflect the use of a network of equipment to measure and report the customers’ energy use, by clarifying that a “meter” includes all equipment, software, and facilities used to measure, monitor, or collect a utility customer’s utility usage, directly or indirectly. (RC)

RESPONSE: The Board declines to make the recommended change. The term “meter” is unambiguous and is not necessary to further define in this context.

SUBCHAPTER 6. UNIFORM SYSTEM OF ACCOUNTS FOR CLASSES A AND B ELECTRIC UTILITIES

N.J.A.C. 14:5-6.1 Adoption by Reference of the Uniform System of Accounts

20. COMMENT: Rate Counsel has no objection to the minor clarifying amendment. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

SUBCHAPTER 8. ELECTRIC DISTRIBUTION SERVICE RELIABILITY AND QUALITY STANDARDS

N.J.A.C. 14:5-8.3 Service Reliability

21. COMMENT: Rate Counsel recommends amending N.J.A.C. 14:5-8.3(a) to strengthen the requirement that each EDC improves its reliability performance, as follows: N.J.A.C. 14:5-8.3(a): “Each EDC shall have reasonable programs and procedures necessary to maintain the minimum reliability levels for its respective operating areas and to improve reliability as set forth in these rules.” (RC)

RESPONSE: The Board declines to make this change as it would set an unreasonable expectation of continuous improvement without limit.

However, the changes made at N.J.A.C. 14:5-8.10(a)1 and 2, which change the CAIDI and SAIFI benchmark standard from a fixed five-year average to a rolling five-year average, are intended to have a similar effect on improving reliability.

22. COMMENT: Rate Counsel recommends amending N.J.A.C. 14:5-8.3(b) to ensure the EDCs continue to improve their reliability performance, as follows: N.J.A.C. 14:5-8.3(b): “The programs shall be designed to sustain reliability and, [where appropriate] as set forth in these rules, improve reliability. Each EDC shall utilize appropriate and qualified resources to maintain at a minimum, the minimum reliability levels for its respective operating areas and achieve reliability improvements required by the Board.” (RC)

RESPONSE: The Board declines to make this change as it would set an unreasonable expectation of continuous improvement without limit. However, the changes made at N.J.A.C. 14:5-8.10(a)1 and 2, which change the CAIDI and SAIFI benchmark standard from a fixed five-year average to a rolling five-year average, are intended to have a similar effect on improving reliability.

N.J.A.C. 14:5-8.5 Individual Circuit Reliability Performance

23. COMMENT: In order to promote continued reliability and quality improvement throughout each EDC’s service territory, Rate Counsel proposes amendments at N.J.A.C. 14:5-8.5. Rate Counsel states that N.J.A.C. 14:5-8.5 currently does not set minimum reliability performance standards for individual circuits and instead N.J.A.C. 14:5-8.5(a) allows each EDC to set its own reliability performance levels and to evaluate its reliability performance in relation to its own criteria. Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.5(a): “Upon request of the Board, each EDC shall be able to identify reliability performance on a basis predefined by the [EDC] Board for any circuit on its system, for CAIDI, SAIFI, SAIDI and CEMI, and any other reliability parameter determined by the Board to be applicable.” (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits. While N.J.A.C. 14:5-8.5(a) does allow each EDC to set its own criteria to measure individual circuit performance, the CAIDI and SAIFI standard metrics are still utilized to measure performance within each operating area. Therefore, deficiencies in an EDC’s methodology for identifying poor performance on an individual circuit basis would be reflected in the reported CAIDI and SAIFI metrics as well. For this reason, the Board does not believe it is necessary to establish a minimum individual circuit performance standard.

24. COMMENT: Rate Counsel contends that N.J.A.C. 14:5-8.5(b) does not currently require the EDC to achieve any particular standard or to take any particular action, such as prioritizing improvement of its existing infrastructure over new programs. Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.5(b): “Each EDC shall identify and analyze poor performance circuit(s) as identified by the reliability performance parameters of (a) above, and shall take appropriate actions to improve reliability performance to meet minimum performance standards, as established under N.J.A.C. 14:5-8.10, for CAIDI, SAIFI, [and] SAIDI or CEMI, or any other reliability parameter determined by the Board to be applicable.” (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits. The Board believes that the CAIDI and SAIFI metrics currently used are

sufficient for measuring system performance and does not see a need to require additional metrics at this time.

25. COMMENT: Rate Counsel contends that N.J.A.C. 14:5-8.5(c) does not require the EDC to review the sub-minimum performance of a circuit unless it fails its own minimum standard for CAIDI and SAIFI and currently it is unclear whether the EDC may find the cause(s) of its sub-minimum performance solely in the previous two years’ reports, without examining its equipment and circuits for the cause(s). Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.5(c): “An EDC that files an Annual Report under N.J.A.C. 14:5-8.8, which identifies one or more operating areas with performance that is worse (that is, that has higher numerical values) than the minimum reliability level for CAIDI, [and] SAIFI, SAIDI or CEMI, or any other reliability parameter determined by the Board to be applicable, shall review its previous two Annual Reports and examine its equipment and circuits for causes of systemic outages and identification of corrective measures, [for purposes of addressing operating area reliability performance] implement corrective measures as required under (b) above, and report on these circuits and corrective measures as required under N.J.A.C. 14:5-8.8(g).” (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits. The Board established CAIDI and SAIFI as the benchmark standards for which the EDCs are evaluated in the Annual System Performance report and the same are used by the EDCs to evaluate their own performance. Therefore, circuits which adversely affect these performance metrics can be identified and addressed through the worst performing circuit regulations as previously stated. Finally, the Board believes that the CAIDI and SAIFI metrics currently used are sufficient for measuring system performance and does not see a need to require additional metrics at this time. The additional requirements recommended at N.J.A.C. 14:5-8.5(c) already exist at N.J.A.C. 14:5-8.5(d) and would be redundant.

26. COMMENT: Rate Counsel contends that N.J.A.C. 14:5-8.5(d) does not require the EDC to improve the performance level of its circuits, but only to take corrective measures to meet its own minimum CAIDI and SAIFI levels, if it performs worse than its own minimum CAIDI and SAIFI standards for an entire operating area in two of its past three Annual Reports. Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.5(d): “If an EDC identifies one or more operating areas with performance that is worse (that is, that has higher numerical values) than the minimum reliability performance level for CAIDI [and] SAIFI, SAIDI or CEMI in two of the past three Annual Reports, the EDC shall further examine its equipment and circuits for causes of systemic outages, shall implement corrective measures as required under (b) above, and shall submit to the Board and Rate Counsel a report of its findings and a detailed plan of [on these circuits and] corrective measures [as required under N.J.A.C. 14:5-8.8(g)] to meet at least its minimum standards, as established under N.J.A.C. 14:5-8.10, for CAIDI, SAIFI, CAIDI and CEMI, and any other reliability parameter determined by the Board to be applicable throughout each of its operating areas, with quarterly progress updates submitted to the Board and Rate Counsel. This quarterly progress update shall be submitted with the quarterly report required by N.J.A.C. 14:5-8.7. Each EDC also must annually submit its report and plan of corrective measures as required under N.J.A.C. 14:5-8.8(g).” (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits. The

Board established CAIDI and SAIFI as the benchmark standards for which the EDCs are evaluated in the Annual System Performance report and the same are used by the EDCs to evaluate their own performance. Therefore, circuits which adversely affect these performance metrics can be identified and addressed through the worst performing circuit rules, as previously stated. Finally, the Board believes that the CAIDI and SAIFI metrics currently used are sufficient for measuring system performance and does not see a need to require additional metrics at this time. There is nothing in the rule preventing the Board from requesting additional reporting, when necessary, and the Board believes the current reporting requirements are sufficient, as worded.

N.J.A.C. 14:5-8.6 Inspection and Maintenance Programs

27. COMMENT: Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.6(d) to either add the definition of the abbreviation “VM” at N.J.A.C.14:5-1.2 or cross-reference the rule where “VM” is defined. N.J.A.C. 14:5-9.3(d) defines “VM” as a vegetation manager who is an electric utility arborist employed by the EDC with certain authority and resources. (Without this definition or cross-reference, the meaning of “VM” is ambiguous and could also refer to vegetation management generally or to a VM plan). (RC)

RESPONSE: The existing rule identifies the abbreviation “VM” in the definition of Vegetation Manager, which has not been modified in this rulemaking.

N.J.A.C. 14:5-8.7 Quarterly Reporting

28. COMMENT: Rate Counsel recommends amending new N.J.A.C. 14:5-8.7(a)1x to also include SAIDI and CEMI among the reliability parameters included within the utilities’ quarterly outage reports. Rate Counsel contends that EDCs can use SAIDI and CEMI data to assist in improving their reliability and does not believe reporting their performance on these parameters should be burdensome. (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation which does not provide the necessary information to effectively address problem circuits.

29. COMMENT: Rate Counsel recommends adding new N.J.A.C. 14:5-8.7(d) to reference any quarterly reporting of the EDC’s reliability performance improvement plan that it may be required to submit pursuant to N.J.A.C. 14:5-8.5(d), as shown below: New N.J.A.C. 14:5-8.7(d): “The quarterly reports shall include any report on the EDC’s reliability performance improvement plan that the EDC may be required to submit under N.J.A.C. 14:5-8.5(d), unless the EDC submits its quarterly report with its Annual Report as per N.J.A.C. 14:5-8.8(i).” (RC)

RESPONSE: The Board declines to add the suggested language as the additional information is beyond the purpose and scope of the quarterly reports. The previously requested changes at N.J.A.C. 14:5-8.5(d) were not accepted; so, this change is unnecessary.

N.J.A.C. 14:5-8.7 Quarterly Reporting

30. COMMENT: ACE recommends that the benchmark standards should use SAIFI and SAIDI instead of CAIDI, as well as adopting the industry standard IEEE 2.5 Beta methodology. CAIDI, which is a representation of SAIDI and SAIFI, is not an ideal indicator for improvements made to modernize the grid. Grid modernization efforts, like automatic sectionalizing and reclosing (ASR) and additional recloser installations, can cause CAIDI value to increase, while overall SAIFI indices decrease. Lastly, customer satisfaction is often driven by the expectation of uninterrupted service, rather than the length of restoration efforts when service is interrupted, which also makes CAIDI measurements less meaningful. (ACE)

RESPONSE: The Board declines to make this change to the benchmarking standards as CAIDI and SAIFI have been the Board’s historic standards for many years. CAIDI, the average restoration time in minutes, represents a meaningful and readily understandable statistic for ratepayers. Additionally, the CAIDI and SAIFI metrics for which the

Board measures system performance already exclude major events, which is consistent with the IEEE 2.5 Beta methodology.

N.J.A.C. 14:5-8.8 Annual System Performance Report

31. COMMENT: Rate Counsel supports the Board’s proposed amendment at N.J.A.C. 14:5-8.8(a) to require EDCs to submit both a public and a confidential version of their Annual System Performance Report. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

32. COMMENT: Rate Counsel recommends amending N.J.A.C. 14:5-8.8(b) to include SAIDI and CEMI, along with SAIFI and CAIDI, among the electric service reliability performance parameters whose minimum reliability levels the EDC must include in its Annual Report for each of its predefined operating areas. (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits.

33. COMMENT: Rate Counsel recommends the following amendments at N.J.A.C. 14:5-8.8(g), which would increase the percentage of worst-performing circuits included in the Annual Report from eight percent to 15 percent. Rate Counsel also recommends allowing an EDC to submit a mitigation plan to improve the performance of only eight percent of the worst-performing circuits in an operating area during a year when that operating area has achieved the top quartile of performance for the reliability parameters at N.J.A.C. 14:5-8.5(a) across the nationwide EDC industry. N.J.A.C. 14:5-8.8(g): “Each EDC shall include in its Annual Report the twenty circuits or [eight] fifteen percent, whichever is greater, of its worst-performing circuits identified in each of its operating areas in N.J.A.C. 14:5-8.5(b) based on the reliability performance parameters in N.J.A.C. 14:5-8.5(a) and the corrective actions taken or to be taken. However, an EDC that has achieved the top quartile of performance for the reliability performance parameters in N.J.A.C. 14:5-8.5(a) across the nationwide EDC industry in a particular operating area shall include in its Annual Report eight percent of its worst-performing circuits identified in that operating area in N.J.A.C. 14:5-8.5(b).” (RC)

RESPONSE: The Board declines to make the requested change as it nearly doubles the number of circuits, which would need to be considered and improved. The requested increase in circuits would have a corresponding increase in capital expenditures to achieve the intended reliability. The Board believes the current value of eight percent provides the best balance of cost and reliability.

34. COMMENT: Rate Counsel recommends the following amendment at N.J.A.C. 14:5-8.8(g)2 to require the EDC to improve its worst performing circuits to a certain standard within a certain time frame. N.J.A.C. 14:5-8.8(g)2: “The EDCs will implement mitigation for these circuits as soon as possible but not later than one year from submission of the annual report [with the goal of] to improve[ing] the circuit’s reliability performance metrics to at least its minimum performance standards, as established under N.J.A.C. 14:5-8.10, for the reliability performance parameters in N.J.A.C. 14:5-8.5(a) within a specified time frame.” (RC)

RESPONSE: The Board declines to make the proposed changes as the existing rules provide a methodology for which worst performing circuits are improved and does not believe specifying a specific time frame for remediation of performance is necessary. N.J.A.C. 14:5-8.5(d) already requires additional corrective actions occur if individual circuit performance is worse in two of the past three Annual System performance reports.

35. COMMENT: Rate Counsel recommends adding new N.J.A.C. 14:5-8.8(i) to require that each EDC include, with its Annual Report, its temporally nearest quarterly report on the circuits identified for improvement, pursuant to N.J.A.C. 14:5-8.5(d). (RC)

RESPONSE: The Board declines to make this change, as the recommended changes at N.J.A.C. 14:5-8.5(d) are not being added, and, therefore, new subsection (i) would not be needed.

N.J.A.C. 14:5-8.9 Major Event Report

36. COMMENT: Rate Counsel supports the Board's proposed amendments at N.J.A.C. 14:5-8.9, to add additional data that the EDC must report after a major event. Rate Counsel recommends that the Board further amend the list of information at N.J.A.C. 14:5-8.9(a), to require EDCs to report the number of and other information on trees, that fell during the major event, including "hazard" trees and "danger" trees as defined in the Board's vegetation management rules at N.J.A.C. 14:9. (RC)

RESPONSE: The Board thanks Rate Counsel for its comments. The Board declines to make the recommended change to the major event report, as this information would not be obtainable within the 20-day filing deadline.

37. COMMENT: Rate Counsel recommends that the Board amend N.J.A.C. 14:5-8.9(a) to require EDCs to provide a copy of each major event report to Rate Counsel, simultaneously with providing it to the Board. Rate Counsel contends this would facilitate monitoring and understanding each major event and the EDC's response to it. (RC)

RESPONSE: The Board will change the rule upon adoption to meet the request of Rate Counsel, which would not burden the EDCs.

38. COMMENT: JCP&L argues that the proposed changes at N.J.A.C. 14:5-8.9 (Major event report) will increase the EDC's burden on reporting and could detract from storm restoration efforts. Much of the information proposed to be required is not presently collected or tracked and does not lend itself easily to such collection and tracking going forward. (JCP&L)

RESPONSE: In recognition of the extra burden of the proposed changes, the Board extended the deadline to file the major event report from 15 business days to 20 business days. Extending the reporting period further would limit the Board's ability to evaluate EDC storm response in a timely manner.

39. COMMENT: JCP&L suggests that the information that requires the EDCs to provide the "number of roads cleared of utility infrastructure" in their major event reports will be time consuming and impractical to collect by EDC personnel. Additionally, to focus on reporting such information would slow down restoration activities and would not result in quality data that the Board could use. (JCP&L)

RESPONSE: The Board disagrees with this assessment as this information is already currently collected in various stages of the damage assessment and restoration process. The Board does not agree that this would slow down restoration activities as identifying downed wires is a high priority function typically not performed by line personnel.

40. COMMENT: JCP&L suggests that the Board reconsider publishing new reporting requirements that could hinder an EDC's ability to efficiently and safely restore service to their customers. (JCP&L)

RESPONSE: The additional reporting requirements in the proposed amendment will enhance the Board's understanding and ability to evaluate each EDC's storm performance. The report is filed after the end of the major event and should not affect the EDCs' ability to efficiently and safely restore service.

41. COMMENT: JCP&L recommends that the Board increase the time-period for reporting from the proposed 20 business days to 25 business days. JCP&L would also support a bifurcated system where the traditional information for the major event report could continue to be provided in 15 days and at least another 10 days to supplement the additional proposed information. (JCP&L)

RESPONSE: Due to the increased reporting requirements, the adopted amendment extends the reporting deadline to 20 business days. Extending the reporting period further would limit the Board's ability to evaluate EDC storm response in a timely manner.

42. COMMENT: JCP&L recommends that the new requirements not take effect until June 1, 2023, because the utility would require additional, and unplanned, resources that will necessitate planning and implementation. (JCP&L)

RESPONSE: The new requirements will become effective upon publication of the adopted rulemaking in the New Jersey Register and the Board does not believe a delay is necessary. Changes made to the

reporting requirements during the stakeholder process were designed to reduce some of the reporting burden and the deadline for filing reports has been extended to 20 business days. The Board does not believe that this creates an undue burden on the EDCs necessitating a delay in the implementation of the rulemaking.

43. COMMENT: JCP&L also requests that the Board make provisions for the EDC's recovery of the incremental costs associated with their implementation of such upgrades and process revisions made to support this additional reporting.

RESPONSE: The Board does not believe a specific provision in the rule to address recovery of costs associated with additional reporting requirements is necessary or appropriate. All prudent and reasonable expenditures are already subject to review and approval by the Board in an EDC's base rate case filing.

N.J.A.C. 14:5-8.10 Establishment of Reliability Service Performance Level

44. COMMENT: Rate Counsel supports the Board's proposal to amend N.J.A.C. 14:5-8.10, to change the benchmark for the five-year average CAIDI and SAIFI performance standard, from "2010 to 2014" to "the previous five years." (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

45. COMMENT: Rate Counsel recommends adding reference to "SAIDI" and "CEMI" along with each reference to SAIFI and CAIDI. (RC)

RESPONSE: The Board declines to make this change as the predefined metrics of CAIDI and SAIFI are already identified in this chapter and the metrics of SAIDI and CEMI are not necessary. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. The Board believes its methodology for dealing with repeated outages through the worst performing circuit addressed at N.J.A.C. 14:5-8.8(g) is superior to using CEMI for targeted system improvements. CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits.

46. COMMENT: Rate Counsel recommends changing the method of calculating the benchmark standard in each successive Annual Report to gradually improve the EDC's reliability performance. Rate Counsel recommends dropping the worst-performing year from the proposed five-year moving average benchmark standard and averaging the EDC's performance for only the four best of the previous five years. Rate Counsel recommends amending N.J.A.C. 14:5-8.10(a)1 and 2 by deleting the current language in [brackets] and adding the new text that is underlined. These changes are intended to address the major disparities in reliability performance between the EDCs. A comparison of each EDC's reliability metrics based on the current and alternative reliability standards for the years 2010-2020 and a comparison of each EDC's reliability metrics for the year 2020 was included in Rate Counsel's attachment to their comments. The Board's proposed amendment is also shown. Rate Counsel's suggested amendments are as follows:

N.J.A.C. 14:5-8.10(a)1: "The operating area's CAIDI benchmark standard is set at the [five-year] average of the lowest four of the previous five years CAIDI for the previous five years [2010-2014]." N.J.A.C. 14:5-8.10(a)2: "The operating area's SAIFI benchmark standard is set at the [five-year] average of the lowest four of the previous five years SAIFI for the previous five years [2010-2014]." New N.J.A.C. 14:5-8.10(a)3: "The operating area's SAIDI benchmark standard is set at the [five-year] average of the lowest four of the previous five years SAIDI for the previous five years [2010-2014]." New N.J.A.C. 14:5-8.10(a)4: "The operating area's CEMI benchmark standard is set at the [five-year] average of the lowest four of the previous five years CEMI for the previous five years [2010-2014]." Recodified N.J.A.C. 14:5-8.10(a)3: "[3]5. The minimum reliability level for each operating area is attained when its annual CAIDI, [and] SAIFI, SAIDI and CEMI are no higher than the CAIDI, [and] SAIFI, SAIDI and CEMI five-year benchmark standard plus 1.5 standard deviations." (RC)

RESPONSE: The Board does not believe these changes would be a fair and reasonable evaluation of EDC performance. Each EDC's performance is based on many factors beyond their control, such as terrain, tree coverage, population density, and other factors that are not uniform or consistent throughout the State or EDC's service territory, so direct

comparisons of reliability are not equitable. The Board's methodology measures reliability as compared to each EDC's own performance and is a meaningful way to track improvements in reliability over time. Additionally, the Board disagrees with Rate Counsel's recommended approach and believes the proposed amendments achieve the same goal of gradually improving EDC's reliability performance through the use of a five-year rolling average for CAIDI and SAIFI. The Board believes that the CAIDI and SAIFI metrics currently used are sufficient for measuring system performance and does not see a need to require additional metrics at this time. SAIDI and SAIFI are components of the CAIDI calculation, so including SAIDI as a reported metric is unnecessary. Also, CEMI is an aggregate computation that does not provide the necessary information to effectively address problem circuits. Finally, regarding the calculations included in the attachments to Rate Counsel's comments, the basis for evaluating system performance metrics defined at N.J.A.C. 14:5-8.10 refers to the CAIDI and SAIFI metrics for each operating area, not the overall system, and, as such, do not accurately represent the effect of the proposed changes.

47. COMMENT: Rate Counsel proposes that the Board initiate a generic proceeding to understand the reasons that some EDCs perform significantly less reliably than other EDCs in New Jersey and to develop plans to improve the under-performers. That proceeding may lead to development of further amendments to the Board's Chapter 5 reliability rules. (RC)

RESPONSE: The Board does not believe this change would be a fair and reasonable evaluation of EDC's performance. Each EDC's performance is based on many factors beyond their control, such as terrain, tree coverage, population density, and other factors that are not uniform or consistent throughout the State or EDC's service territory. The Board's methodology measures reliability as compared to each EDC's own performance and is a meaningful way to track improvements in reliability over time.

48. COMMENT: JCP&L states that the number of major events the EDCs experience has the potential to significantly impact reliability metrics. The "major event" definition is extremely important to determine an EDC's baseline reliability metrics and then determine that EDC's performance against those metrics. Therefore, JCP&L suggests that the Board needs to permit the EDCs to recalculate and restate their baseline metrics for the five-year averages for CAIDI and SAIFI pertinent to N.J.A.C. 14:5-8.10(a), excluding major events in accordance with the adopted rules as not doing so would allow for improper comparable minimum and benchmark reliability metrics. JCP&L maintains that without the ability to recalculate and restate its minimum and benchmark reliability levels, the EDC would be forced to make inaccurate comparisons against historical measurements when the rule was not changed. JCP&L agrees and supports a "transition period," as discussed at the Board Agenda Meeting on June 29, 2022. For both subsections at N.J.A.C. 14:5-8.10(a), JCP&L proposes to add the language, "... as calculated utilizing the regulations in effect during the measured year." (JCP&L)

RESPONSE: As specified at N.J.A.C. 14:5-1.2 in the definition for "major events," EDC's CAIDI and SAIFI calculations already exclude major events. The Board does not believe that the changes in the "major event" definition would create a substantial change in the resulting reliability statistics, as they merely add clearly defined limitations on the definition's use. However, the Board will give reasonable consideration to benchmarks filed covering the system performance in the year 2022 for which this rule will first be applied.

49. COMMENT: ACE recommends that benchmark standards should use SAIFI and SAIDI instead of CAIDI, as well as adopting the industry standard IEEE 2.5 Beta methodology. CAIDI, which is a representation of SAIDI and SAIFI, is not an ideal indicator for improvements made to modernize the grid. Grid modernization efforts, like ASR and additional recloser installations, can cause CAIDI value to increase while overall SAIFI indices decrease. Lastly, customer satisfaction is often driven by the expectation of uninterrupted service rather than the length of restoration efforts when service is interrupted, which also makes CAIDI measurements less meaningful. (ACE)

RESPONSE: The Board declines to make this change to the benchmarking standards as CAIDI and SAIFI have been the Board's

historic standards for many years. CAIDI, the average restoration time in minutes, represents a meaningful and readily understandable statistic for ratepayers. Additionally, the CAIDI and SAIFI metrics for which the Board measures system performance already exclude Major Events, which is consistent with the IEEE 2.5 Beta methodology.

N.J.A.C. 14:5-8.11 Prompt Restoration Standards

50. COMMENT: Rate Counsel supports the Board's amendment to ensure that EDCs prioritize the restoration of power based on public safety and health principles. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

51. COMMENT: PSE&G noted that hospitals, along with police and fire departments, and large water treatment facilities, are currently the highest priority in service restoration. The proposed addition will add over 500 additional facilities to the company's priority restoration list with the expectation that they will be given the same restoration priorities as hospitals. PSE&G has no means of identifying clinical or research laboratories or institutes that store human blood, tissue, or Deoxyribonucleic Acid (DNA) and will need to be provided this information. The proposed changes do not fully align with, nor cross-reference, the National Electric Code requirements for emergency generators. (PSE&G)

RESPONSE: This rulemaking codifies P.L. 2021, c. 29, and was added as worded in the statute in order to maintain the intent of the Legislature. Board staff, specifically the Division of Reliability and Security, will work with the appropriate State departments and agencies to assist the EDCs in compiling the list of facilities.

52. COMMENT: With the exception to hospitals, ACE does not have an existing exhaustive list of the facilities outlined in the proposed rule change clearly identified with priority restoration, nor does it have a clear method to identify those eligible facilities within ACE's service territory, including: assisted living facility; chronic or acute renal dialysis facility; clinical or research laboratory or institute that stores human blood, other human tissue, or human Deoxyribonucleic Acid (DNA); or nursing home. Support from the State and/or counties is needed to generate a comprehensive list of the existing facilities within its service territory and an ongoing proposed methodology to stay informed of new facilities to be added, and those no longer required to be included, in order to stay compliant with the rule change and avoid ongoing prioritization of facilities no longer meeting the criteria in the rule change. (ACE)

RESPONSE: Board staff, specifically the Division of Reliability and Security, will work with the EDCs to obtain the data required and develop the methodology to comply with this rule and the requirements at P.L. 2021, c. 29 (N.J.S.A. 48:7-26 and 27).

N.J.A.C. 14:5-8.12 Outage Management Systems

53. COMMENT: Rate Counsel supports the amendment to give EDCs the option to maintain an Advanced Distribution Management System (ADMS) as an alternative to an Outage Management System (OMS) to the extent that maintaining an ADMS will enable an EDC to deliver safe, adequate, and reliable service more affordably. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

SUBCHAPTER 9. ELECTRIC UTILITY LINE VEGETATION MANAGEMENT

N.J.A.C. 14:5-9.6 Technical Standards for Vegetation Management

54. COMMENT: Rate Counsel supports the change to correct the website link to the "Best Management Practices, Utility Pruning of Trees, 2004," published by the International Society of Arboriculture. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

N.J.A.C. 14:5-9.7 Transmission Line Vegetation Management

55. COMMENT: Rate Counsel supports the change to reference the current version of the requirements for minimum clearances between any transmission line and the closest vegetation, set forth by the North American Electric Reliability Corporation in its FAC-003-4, as amended and supplemented. (RC)

RESPONSE: The Board thanks Rate Counsel for its comment.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., 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. The NERC FAC-003-4 standard, Transmission Vegetation Management, which primarily relate to tree trimming requirements, applies only to transmission lines 69 kilovolts and above. The New Jersey EDCs operate a number of transmission lines, the loss of which may cause widespread outage to customers in New Jersey. Therefore, Chapter 5 requires all transmission lines in New Jersey to meet the NERC Minimum Vegetation Clearance Distances, and also requires the EDCs to remove all vegetation within the relevant EDC's rights of way, such that no vegetation will fall into the line (N.J.A.C. 14:5-9.7(e)1). The Board's rules also set forth vegetation management requirements for distribution lines that are not subject to the NERC FAC-003-4 standard.

N.J.A.C. 14:5-6.1 contains the adoption by reference of the USOA for Classes A and B Electric Utilities that have been promulgated by the FERC, as well as any subsequent amendments, revisions, deletions, and corrections, which FERC may make thereto. The remainder of the subject matter of the rules readopted with amendments and a new rules is not the subject of any Federal law, rule, or regulation.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:5.

Full text of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks*[thus]*):

SUBCHAPTER 1. SCOPE AND APPLICABILITY

14:5-1.2 Definitions

For the purposes of this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

...
 "AM" means advanced metering infrastructure, which is an integrated system of smart meters, communications networks, and data management systems that enables two-way communication between utilities and ***[customers]* *customers' meters***.

...
 "Assisted living facility" means an assisted living residence or comprehensive personal care home licensed pursuant to N.J.S.A. 26:2H-1 et seq.

"Benchmark" means the previous five-year average of CAIDI and SAIFI or a value determined by the Board.

...
 "Full-time equivalent" (FTE) means a unit that indicates the workload of an employed person in a way that makes workloads comparable across various contexts. An FTE of 1.0 is equivalent to a full-time worker, while an FTE of 0.5 signals half of a full workload.

...
 "Hospital" means hospital licensed pursuant to N.J.S.A. 26:2H-1 et seq.

...
 "Interruption, extended" means an interruption of electric service to one or more customers for a period of at least 24 hours.

...
 "Major event" means any of the following:

1. A sustained interruption of electric service resulting from conditions beyond the control of the EDC, which may include, but is not limited to, thunderstorms, tornadoes, hurricanes, heat waves, or snow and ice storms, which affect at least 10 percent of the customers in an operating area within a 48-hour period. Exceeding this time period shall be justified in the Major Event Report. Due to an EDC's documentable need to allocate field resources to restore service to affected areas when one operating area experiences a major event, the major event shall be deemed to extend to those other operating areas of that EDC, which are providing assistance to the affected areas. The duration of the major event shall be limited to the conditions initiating the event and conclude when the final customer

outage is restored from the initiating event. The Board retains authority to examine the characterization of a major event;

2. (No change.)

3. A sustained interruption occurring during an event, which is outside the control of the EDC, and is of sufficient intensity to give rise to a state of emergency or disaster being declared by State government. The event is concluded upon the restoration of all customers affected by the initial event; or

4. When mutual aid is provided to another EDC or utility, the assisting EDC may apply to the Board for permission to exclude its sustained interruptions from its CAIDI and SAIFI calculations, if the aid provided affected the EDC's ability to respond to those interruptions. Interruptions occurring during a major event in one or more operating areas shall not be included in the EDC's CAIDI and SAIFI calculations of those affected operating area(s). However, interruption data for major events shall be collected, according to the reporting requirements outlined at N.J.A.C. 14:5-8.9 and 8.10.

...
 "Nursing home" means a nursing home licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.).

...
 "Wire zone" means the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, version four, which is incorporated herein by reference, as amended and supplemented, and available at www.nerc.com.

SUBCHAPTER 2. PLANT

14:5-2.1 Plant construction

(a) The construction and installation of plant and facilities of EDCs must be in accordance with all of the following, as they applied at the time of construction:

1.-2. (No change.)

3. The 2023 National Electrical Safety Code, which is available at <https://standards.ieee.org/products-services/nesc>.

(b) (No change.)

14:5-2.9 Inspection and repair of street lights

(a) Each EDC shall inspect lamps and street lighting accessories and maintain such service in accordance with N.J.A.C. 14:3-2.7(a) and established industry practice.

(b) (No change.)

14:5-2.10 Inspection of property

Whenever any transformers, high tension insulators, and equipment are removed from the system for any reason, they shall be inspected as to safety and serviceability before being reinstalled in the same or other location.

SUBCHAPTER 6. UNIFORM SYSTEM OF ACCOUNTS FOR CLASSES A AND B ELECTRIC UTILITIES

14:5-6.1 Adoption by reference of the Uniform System of Accounts

The Board adopts by reference the Uniform System of Accounts (USOA) for Classes A and B Electric Utilities that have been promulgated by the Federal Energy Regulatory Commission (FERC), as well as all present and subsequent amendments, revisions, deletions, and corrections, which the FERC may adopt, insofar as they relate to EDCs, subject to the jurisdiction of the Board, and are in accordance with the Board's policies and procedures. Information about the USOA may be obtained at www.ferc.gov/enforcement-legal/enforcement/accounting-matters.

SUBCHAPTER 8. ELECTRIC DISTRIBUTION SERVICE
RELIABILITY AND QUALITY STANDARDS

14:5-8.7 Quarterly reporting

(a) On a quarterly basis, each EDC shall prepare and submit a report to the Board's Energy Division providing the following information regarding all outages experienced and recorded during each quarter (other than momentary outages, as defined by IEEE 1366 and major events, which shall be excluded). Each quarterly report shall be due within 60 days of the end of the quarter.

1. The quarterly outage reports shall provide the following information:

- i.-vii. (No change.)
- viii. Total duration of outage in minutes;
- ix. The cause of outage (for example, vegetation, equipment failure, outside influence); and
- x. The SAIFI and CAIDI calculations for the quarter and year to date.

2.-4. (No change.)

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

14:5-8.8 Annual System Performance Report

(a) Each EDC shall submit to the Board an Annual System Performance Report by May 31 of each year and shall include a public and confidential version. The EDC shall also submit a copy of the report to Rate Counsel at the same time, which may be submitted electronically, at the discretion of Rate Counsel.

(b)-(h) (No change.)

14:5-8.9 Major event report

(a) The EDC shall, within 20 business days after the end of a major event, submit a report to the Board ***and Rate Counsel***, which shall include the following:

1.-2. (No change)

3. The number of trouble locations and classifications, damaged poles, damaged transformers, and estimated miles of wire replaced;

4. The time at which the mutual aid FTEs and non-company contractor FTEs were requested, arrived for duty, and were released, and the mutual aid and non-contractor response(s) to the request(s) for assistance;

5. A timeline profile of the number of company line FTEs, mutual aid FTEs, non-company contractor line FTEs, and tree FTEs working on restoration activities during the duration of the major event;

6. A timeline profile of the number of company FTEs sent to an affected operating area to assist in the restoration effort;

7. A summary of emergency management contacts made by the EDC over the course of the outages, including contacts with county office of emergency management (OEM) coordinators, municipal OEM coordinators, mayors, business administrators, police chiefs, and fire chiefs;

8. A summary of any public communications made by the EDC before, and during, the course of the outages, including communications through radio, newspapers, television, social media, and the EDC's website;

9. A list in sequential restoration order of all outage events that were restored, the number of customers restored associated with these events, and the time at which they were restored;

10. A list of all individual outage events that states the municipality, county, and number of customers affected for each event;

11. A summary statement regarding when high winds prevented restoration personnel from performing their job functions;

12. A list detailing the time and date of all requests made by the EDC to other utilities, including parent companies, subsidiaries, and/or "sister" companies, and/or outside contractors or subcontractors for mutual assistance. The nature of each request should also be specified;

13. The number of roads cleared of utility infrastructure;

14. A justification for this incident to be considered a major event, if the 48-hour threshold to reach 10 percent or more customer outages within an operating area is exceeded;

15. A summary of telecommunications sector issues that hampered restoration; and

16. A list of the estimated times of restoration (ETR) issued by the EDC throughout the restoration (global and operating areas ETRs).

(b) (No change.)

14:5-8.10 Establishment of reliability service performance level

(a) For each of an EDC's operating areas, the reliability performance level is established as follows:

1. The operating area's CAIDI benchmark standard is set at the five-year average CAIDI for the previous five years;

2. The operating area's SAIFI benchmark standard is set at the five-year average SAIFI for the previous five years;

3. (No change.)

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

14:5-8.11 Prompt restoration standards

(a)-(d) (No change.)

(e) An EDC shall give priority to an assisted living facility; hospital, chronic, or acute renal dialysis facility; clinical or research laboratory or institute that stores human blood, other human tissue, or human Deoxyribonucleic Acid (DNA); or nursing home for power restoration after an extended interruption following a major event, except when those power restoration efforts divert resources from power restoration efforts needed to maintain overall public safety. In all other cases, an EDC may exercise its discretion to prioritize power restoration to an assisted living facility; hospital; chronic or acute renal dialysis facility; research laboratory or institute that stores human blood, other human tissue, or human DNA; or nursing home after an extended interruption in accordance with the facility's needs and with the characteristics of the geographic area in which power is being restored.

14:5-8.12 Advanced distribution management systems (ADMS) and outage management systems (OMS)

(a) Each EDC shall maintain an ADMS or OMS as described in this section.

(b) The ADMS or OMS shall consist, at a minimum, of a fully integrated geographic information system (GIS), a sophisticated voice response unit (VRU), a software driven outage assessment tool, and an energy management system/supervisory control and data acquisition (EMS/SCADA).

(c) The ADMS or OMS shall be able to digitally map the entire electric distribution system, group customers who are out of service to the most probable interrupting device that operated, associate customers with distribution facilities, generate street-map indicating EDC outage locations, improve the management of resources during a storm, improve the accuracy of identifying the number of customers without electric service, accurately communicate the number of customers without electric service and improve the ability to estimate their expected restoration time, accurately communicate the number and when customers were restored, and dispatch crews and/or troubleshooters through computer (mobile data terminals).

(d) As part of the advanced distribution management system or outage management system, each EDC shall use appropriate cost benefit analysis for the purpose of adopting smart grid technology to improve reliability. The implementation of smart grid technology shall be reported in the Annual System Performance Report.

SUBCHAPTER 9. ELECTRIC UTILITY LINE VEGETATION
MANAGEMENT

14:5-9.6 Technical standards for vegetation management

(a) Each EDC shall ensure that vegetation management conducted on its energized conductors is performed in accordance with the standards and accepted procedures set forth in the following publications, which are incorporated herein by reference, as amended and supplemented:

1.-3. (No change.)

4. Best Management Practices, Utility Pruning of Trees, 2004. This title is published by the International Society of Arboriculture and may be obtained at <https://www.isa-arbor.com/store/product/65/>;

5.-9. (No change.)

(b)-(g) (No change.)

14:5-9.7 Transmission line vegetation management

(a) (No change.)

(b) At a minimum, each EDC shall meet the requirements for minimum clearances between any transmission line and the closest vegetation,

which are set forth in the North American Electric Reliability Corporation (NERC) FAC-003-4, which is incorporated herein by reference, as amended and supplemented and available at www.nerc.com.

(c)-(i) (No change.)

TRANSPORTATION

(a)

DIVISION OF OPERATIONS

Notice of Readoption

Highway Occupancy Permits

Readoption with Technical Changes: N.J.A.C. 16:41

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:1A-7.

Authorized By: Diane Gutierrez-Scaccetti, Commissioner,
Department of Transportation.

Effective Dates: January 18, 2023, Readoption;
February 21, 2023, Technical Changes.
New Expiration Date: January 18, 2030.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 16:41 were scheduled to expire on February 19, 2023. The Department of Transportation (Department) has reviewed the rules and determined that they should be readopted with technical changes. The rules are necessary, reasonable, adequate, and responsive 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.

These rules outline the standards and procedures applicable for filing applications to obtain permits for the performance of work over, under, or within any portion of State highway right-of-way or property under the jurisdiction of the Department. Permits are also necessary for the initiation of activities that may interfere with the free and safe movement of normal traffic on the State highway system. The Department is making technical changes to update telephone numbers and addresses to the Department of Transportation and update dates of publication standards.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE, SCOPE, AND CONTACT INFORMATION

16:41-1.3 Contact information

(a) Applicants shall direct requests for permits, except for wireless communications site survey permits, to the Operations Permit Office. The address and telephone number of the Operations Permit Office is:

Operations Permit Office
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
E&O Bldg., 4th Floor]
Trenton, NJ 08625
[(732) 625-4330] **(609) 963-1487**
(609) 588-6212-Central, (609) 588-6211-North, (609) 588-6213-South (Emergency only)

(b) Applicants shall direct requests for wireless communications site survey permits to the following address:

Wireless Communications Unit
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600
(609) [530-3875] 963-1209 and (609) 963-1203

(c) Applicants shall direct requests for field markouts of fiber optic cables or conduit facilities to the Department's website or Traffic Operations Centers listed below:

1. (No change.)

2. Traffic Operations North (Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Sussex, Somerset, Union, and Warren counties):

New Jersey Department of Transportation
670 River Drive
Elmwood Park, NJ 07407
(201) [797-7076] **421-2923**

3. Traffic Operations South (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem counties):

New Jersey Department of Transportation
One Executive Campus
Route 70 at Cuthbert Road
Cherry Hill, NJ 08002
(856) [486-6610] **414-8511**

4. For emergency markouts Statewide call (609) 588-6212-
Central, (609) 588-6211-North, or (609) 588-6213-South.

(d)-(e) (No change.)

SUBCHAPTER 3. GENERAL PROVISIONS

16:41-3.2 Inspection, material, and workmanship

(a) Activity within State highway rights-of-way or property under the jurisdiction of the Department is subject to inspection and approval by the Department. Construction, as far as is practicable, shall conform in quality and appearance to similar Department construction. Material shall conform to the Department's "Standard Specifications for Road and Bridge Construction", [2007] **2019** edition, and any updates or superceding editions, unless otherwise specified in the permit. If the Department's inspector determines that the permittee is providing insufficient traffic protection or that some other deficiency exists, the Department's inspector shall prohibit the permittee from conducting further activity until the permittee corrects the deficiency.

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

SUBCHAPTER 4. STANDARDS

16:41-4.1 Standards

(a) All activity performed within State highway rights-of-way or property under the jurisdiction of the Department and all signs, markings, or other traffic control devices used by the permittee shall be in compliance with the design standards in this section, unless otherwise specified in the permit.

1. "New Jersey Department of Transportation Roadway Design Manual," [2007] **2015**, incorporated herein by reference, as amended and supplemented, available from the Department's Engineering Documents Unit at [609-530-5587] **(609) 963-1465**, or on the Department's website at: www.nj.gov/transportation/eng/documents/RDM/.

2. "New Jersey Department of Transportation Bridges and Structures Design Manual," [5th] **6th** edition, incorporated herein by reference, as amended and supplemented, available from the Department's Engineering Documents Unit at [609-530-5587] **(609) 963-1465** or on the Department's website at: www.nj.gov/transportation/eng/documents/BSDM/.

3. "A Policy on Design Standards-Interstate System," [2005] **2016** edition, incorporated herein by reference, as amended and supplemented, available from the American Association of State Highway and Transportation Officials (AASHTO), Suite 249, 444 North Capitol St., NW, Washington, DC 20001, or on the AASHTO website at: <https://bookstore.transportation.org/>.

4. "New Jersey Department of Transportation Standard Electrical Details," 2007, incorporated herein by reference, as amended and supplemented, available from the Department's Engineering Documents Unit at [609-530-5587] **(609) 963-1465** or on the Department's website at: www.nj.gov/transportation/eng/elec/.

5. (No change.)

6. "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction," [2007] **2019** edition, incorporated herein by reference, as amended and supplemented, available from the Department's Engineering Documents Unit at [609-530-5587] **(609) 963-1465** or on the Department's website at: www.nj.gov/transportation/eng/.