

CHAPTER 11**ADMINISTRATIVE ORDERS****Authority**

N.J.S.A. 48:2-12, 48:2-13, 48:2-14, 48:3-9, 48:17-14.1, 48:10-2 et seq.

Source and Effective Date

R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Executive Order No. 66(1978) Expiration Date

Chapter 11, Administrative Orders, expires March 1, 1998.

Chapter Historical Note

All provisions became effective prior to September 1, 1969. Amendments became effective June 27, 1972 as R.1972 d.124. See: 4 N.J.R. 52(c), 4 N.J.R. 197(c). Further amendments became effective January 17, 1975 as R.1975 d.8. See: 6 N.J.R. 451(c), 7 N.J.R. 62(a).

Subchapter 2 was amended and recodified effective February 1, 1982 as R.1982 d.30. See: 13 N.J.R. 834(a), 14 N.J.R. 160(b). The Reorganization Plan for the Board of Public Utilities and the Department of Transportation (1978) recodified N.J.A.C. 14:11-2.1 and 2.3 through 2.40 to N.J.A.C. 16:53-2.3 through 2.40 and N.J.A.C. 14:11-2.41 was duplicated in N.J.A.C. 16:53-2.41.

This chapter was readopted effective January 27, 1987, with amendments and deletions effective February 17, 1987 as R.1987 d.116. See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Pursuant to Executive Order No. 66(1978), Chapter 11 expired on January 27, 1992. Subsequently Chapter 11, except Subchapter 8, was adopted as new rules by R.1993 d.95. See: Source and Effective Date. Subchapter 8, Natural Gas, was adopted as R.1993 d.361, effective September 7, 1993. See: 24 N.J.R. 1684(b), 25 N.J.R. 897(a), 25 N.J.R. 4106(c).

See section annotations for specific rulemaking activity.

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SUBCHAPTER 8. (RESERVED)**SUBCHAPTER 1. PETITIONS****14:11-1.1 Approval of grants; streets and public places**

(a) N.J.S.A. 48:2-14 provides: "No privilege or franchise granted after May first, one thousand nine hundred and eleven to any public utility by a political subdivision of this State shall be valid until approved by the Board. Such approval shall be given when, after hearing, the Board determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests. In granting its approval the Board may impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require".

(b) In order to avoid needless delay the Board will, upon the submission to it by any local, municipal or county governing body of any proposed grant coming within this Section of the statute, advise such body informally and preliminarily of its general attitude respecting the provisions of the proposed grant.

Historical Note

Formerly Administrative Order 14:200.

Cross References

See Subchapter 5 (Petitions) of Chapter 1 of this Title.

14:11-1.2 (Reserved)**Historical Note**

Formerly Administrative Order 14:205.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Approval of municipal consents; autobus operations." See N.J.A.C. 14:1-5 and 14:1-6.7 through 6.9.

14:11-1.3 (Reserved)**Historical Note**

Formerly Administrative Order 14:215.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Approval of municipal consents; autobus routes." See N.J.A.C. 14:1-6.6.

14:11-1.4 (Reserved)**Historical Note**

Formerly Administrative Order 14:210.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Autobus rates and service." See N.J.A.C. 14:1-1 and 14:1-6; specifically 14:1-1.1.

14:11-1.5 Grants of franchise and privileges to public utilities

(a) Under the terms of N.J.S.A. 48:2-14, a privilege or franchise granted by a municipality is not effective until approved by the Board.

(b) Because such approval is required, the Board indicates in advance its opinion that, in general, grants which are limited to a term of years should contain provisions:

1. Safeguarding the public interest in continuous and uninterrupted service at and after the expiration of the term of the grant;
2. Requiring the maintenance of the property of the grantee in good order throughout the full term of the grant;
3. That the utility give reasonable assurance that the grantee will continuously afford safe, adequate and proper service at just and reasonable rates.

Historical Note

Formerly Administrative Order 14:220.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Subsection (a) deleted.

Cross References

See Section 5.5 (Petitions for approval of franchises or consents) of Chapter 1 of this Title.

14:11-1.6 Proposed security issues

(a) The law at present casts upon the Board the responsibility of determining what security issues may be made by public utilities in the State of New Jersey (N.J.S.A. 48:3-9). The Board, after due hearing, or investigation, is required to approve proposed security issues; provided the Board be satisfied that proposed issues are in accordance with law, and provided the Board approves the purpose of said proposed issues.

(b) So far as the Board's approval of the purpose of a proposed security issue is concerned, the Board is already on record to the following effect:

"The term 'purpose', in the opinion of the Board, cannot and ought not narrowly be confined merely to the corporation's intention to procure or pay for property, materials and services with the proceeds of the securities intended to be issued. The powers and responsibilities of the Board in this respect are no less ample than may fairly be inferred from the spacious term 'purpose' advisedly incorporated in the Statute." (Memorandum dated July 7, 1911. In the matter of the Application of the Riverside Traction Company for Leave to Issue, Sell and Deliver Bonds, and so forth)

(c) Various cases involving the approval of proposed security issues have been acted upon by the Board under the law. An analysis of many of these cases discloses certain general principles upon which these applications should be determined. These general principles will control unless and until good reason can be shown for departing therefrom. For the information of public utilities petitioning or intending to petition for the approval of security issues, certain of these general principles are set forth as follows:

1. The two conditions first named above must in all cases be met. These are that a proposed issue must be in accordance with the law, and that the purpose of a proposed issue must be approved by the Board.

2. The purpose of a proposed issue is not commendable, and will not carry the Board's approval where the issue, if approved, would result in an evasion of mandatory statutory provisions governing the issue, sale and delivery of securities. Thus in the case of the Riverside Traction Company, cited in (b) above, the purpose of a proposed bond issue was held vitiated by the fact that said bond issue, if approved, would defer for a time or indefinitely postpone an assessment for an unpaid percentage of the face value of the stock issued and outstanding

3. Where approval of security issues is asked, and statement is made of the use to which proposed securities are to be put, the Board endeavors through its inspectors, engineers or other Board authorized representatives to determine that the proceeds of the securities whose issue is asked shall be reasonably commensurate with the property or services to be purchased therewith. Where the property whose acquisition is sought can be inventoried and appraised, such a course is followed with as much care and in such detail as under all the circumstances is possible. Where the property or services to be acquired cannot be physically inventoried, because not yet existent, such estimate is made on the basis of unit prices and otherwise, with as much care and in such detail as is possible under all the circumstances. Approval by the Board of such proposed issue of securities does not carry or imply any confirmation of the business or financial standing of the issuing corporation as a whole. It must be recognized that no care exercised in the way of approval by the Board at the time securities are issued can preclude the subsequent chance of poor management, dishonesty, or reckless and irresponsible ill-fortunate, by which the assets of a public utility may be lessened or impaired. The intent of the statute and the Board's action thereunder seek to preclude promotion or subsequent inflated issues. No statute and no administrative process, however, can relieve the investor of the obligations of prudence and vigilance. At the best they can but aid him in furnishing some grounds for the exercise of intelligent judgment.

4. Where petition is made for the approval of the issue of bonds or notes, where said bonds or notes are to be sold at a discount, the Board has adopted the general policy of approving such issues only upon the companies' undertaking to amortize the bond discount in accordance with certain stipulations inserted in the Board's order of approval or in accordance with the requirements of the applicable Uniform System of Accounts. Where, for example, five per cent debt securities are sold at a price below their face value, the result of the sale is as follows: First, an increase of the company's liabilities to the amount of the principal or face amount of the debt securities; Second, an increase of the company's assets to the amount of cash realized. The difference is commonly entered as an asset termed "Unamortized Debt Discount and Expense". This asset is practically a dummy asset. If the company is to make its real assets equal to its added liabilities, it must add to its property an amount equal to the amount recorded therein. The most effectual way would seem to be to lay aside from earnings an annual amount. The setting aside of this amount annually must be done before the company is entitled to declare or make any dividend. It is true that the process implies that the consumer must contribute in rates more than he would be required to pay if no amount were needed annually for this amortization. On the other hand, if the bond had been sold at par, a higher rate than the assumed five per cent would have been exacted by the lender to the company, and this higher rate of interest would have been included in the annual fixed charges. The higher fixed charges would have imposed a greater annual payment upon consumers. Practically, therefore,

the burden which amortization imposes on the consumer is simply the necessary outcome of the process of issuing bonds at less than par. It would not disappear but only change its form, if the bonds were sold at par and the real rate of interest thereon were not disguised. It has been progressively acknowledged that bond discount is not properly chargeable to capital account, but should be amortized within the life of the obligation. In certain authorizations of bond issues by this Board, request has been made by the issuing corporation that a specific sum shall be named by the Board to be set aside annually for this purpose. It may be taken as the rule, therefore, that the Board's approval of bond issues will be contingent upon the petitioner's acceptance of a proper amortization provision where necessary. But the provision may vary in different cases, according to the life of the bond, the desire of the company to expedite the process, and the varying capacity of different utilities to provide expeditiously for proper amortization.

5. Where a petition for Board's approval of a security issue contains provision for calling the securities at a premium before maturity, it is realized that in certain instances refunding of securities at a premium before maturity might effect such a reduction of fixed charges as to be advantageous both to the company and the consumers. Accordingly, the Board in approving security issues will not sanction redemption before maturity at a premium at the company's sole option; should the issuing company, however, reserve such right of redemption at a fixed premium before maturity subject to future approval by the Board after due hearing or investigation, the Board will consider in any case the inclusion of such provision in its formal order of approval.

6. In acting upon petitions for the approval of proposed issues of debt securities, the Board will insist on adequate evidence of the probability that the fixed charges can be regularly met, and that the principal sum can be repaid at maturity. Where such debt securities are to be issued by a public utility now operating, the past and current earnings of the public utility will be a relevant consideration. Also worthy of consideration will be such probable changes in earnings as properly may be expected to result from the property to be acquired by the proposed issue:

i. Where the company is newly projected, and where past experience is not available to indicate the probable return in revenue to the company, debt security issues, if they are to be approved, must carry a reasonable probability that, with average good management, fixed charges may be regularly met and ultimate payment of the principal sum may be provided;

ii. Where approval of proposed stock issues is requested, the Board will endeavor to be assured that the stock issues will secure for the public utility additional property commensurate with the par value of the stock issue proposed. The investor in stock knowingly takes a chance of return which the investor in debt securities commutes for a specified return of fixed amount. For this reason the Board does not feel obliged to be assured of the probability of returns upon stock as it does in the case of proposed debt security issues.

7. Certain special cases of proposed security issues may arise under certain circumstances, some of which are set forth hereafter. In these special cases the general principles outlined above will be applied so far as seems equitable, and exceptions made only where the general principles enunciated therein would work inequitably. Among the special cases may be mentioned the following:

i. Where a bond issue has previously been sanctioned under a mortgage or deed of trust providing that all bonds issued thereunder shall be identical in tenor, and where some part of the authorized bonds has not yet been actually issued, in some cases the Board does not feel that it can impose, as a condition of authorizing a remaining and unissued part of the total issue authorized, requirements against redemption at a premium prior to maturity;

ii. Where petitions request authority to issue new securities in order to refund outstanding securities, the new securities, to issue, must conform to such requirements as would be imposed if the refunding securities were an original issue. The refunding debt and equity securities must be backed respectively by proportionate amounts of cash, or property of actual cash value. The refunding issues must afford the same likelihood of meeting their fixed charges and payment of the principal sum at maturity as is indicated in (c)6 above. Nor will agreements or contracts providing for refunding of security issues where such agreements or contracts were made prior to the enactment of Chapter 195 of the Laws of 1911, (now N.J.S.A. 48) be regarded by the Board as invalidating or overriding the authority over security issues vested in this Board by said Act. The power conferred upon this Board to disapprove proposed security issues not in accordance with law or whose purpose is not approved by the Board is expressly conferred by the Act of April 21, 1911 (Chapter 195, Laws of 1911) (now N.J.S.A. 48:3-9), and this power is not restricted by any other provision of the law governing public utilities, or corporations generally. All such agreements or contracts, however binding upon the individual parties thereto they might have been, in default of the Legislature's subsequently vesting power over proposed security issues in this Board, are not controlling so as to delimit the Board's action upon proposed security issues. For such outstanding securities as may legally have come into existence prior to the passage of the Act of April 21, 1911, this Board has no responsibility. But its authority is not delimited by expectations that may have been created by reason of agreements or contracts between private parties made prior to the enactment of the statute in question. Where the provisions of such agreements or contracts involve issue of new securities, they must be submitted to this Board.

8. The declaration of dividends in the form of stock by public utilities is permissible only in such cases as this Board with or without hearing may authorize. To declare such a stock dividend without first obtaining the approval of the Board is a misdemeanor, and all such securities issued without the Board's approval are illegal. In general, the Board will approve the issue of stock dividends by public utilities only after hearing or investigation, and after being satisfied that as the outcome of such issues the property and other net assets of the company over and above other liabilities resting thereon shall be equal to the par or stated value of the total stock outstanding after such stock dividends have been made. Adequate depreciation reserves and surplus must also be provided by a public utility petitioning to issue a stock dividend, and a careful inquiry will be made by the Board into the methods by which were accumulated assets or property against which the additional stock dividend is to be justified. In addition, the petition must contain a reasonably detailed inventory of its property used or useful, or held for future use and priced at original cost, estimated if not known.

9. For the information of all public utilities intending to petition this Board for the approval of proposed security issues, reference should be made to the Board's rules. The requirements of this Order and the rules as to the form and content of petitions should be carefully observed. Petitions should be filed sufficiently in advance of the time at which approval of securities is desired to insure the Board reasonable time to make the relevant inquiries. The larger the proposed issue, and the more complex the conditions surrounding it, the earlier should the petition be filed with the Board. The petitions will be acted upon hereafter in the order of their filing as indicated by the dating stamp of the Secretary's office. Petitions essentially defective in form or content will not be listed for consideration until properly amended. Where such petitions involve the necessity of inventorying property or checking accounts, the public utility applying for such authorization is requested to give such assistance as is within its power by putting its engineers, managers, and accountants in touch with the Board's engineers or other Board authorized representatives. Where the annual reports required of public utilities have not been promptly filed as by the rules of this Board, or where such accounts, when filed, disclose failure upon the part of the public utility to comply with the requirements of law or with the terms upon which previous security issues of said utilities have been approved by this Board, any subsequent petition for the approval of securities by a public utility shown to be default may be postponed until the requisite and legal compliance with the law and the lawful rules of this Board has been made by said public utility.

Historical Note

Formerly Administrative Order 14:230.

Amended by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Substantially amended.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Stylistic changes.

Cross References

See Section 5.9 (Petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages) of Chapter 1 of this Title.

14:11-1.7 Approved securities; reports

(a) Whenever approval is granted under the provisions of N.J.S.A. 48:3-9 for the issue of stocks, certificates, bonds or other evidences of indebtedness, the company securing such approval shall semiannually file with the Board a statement setting forth:

1. The amount of stocks, certificates, bonds or other evidences of indebtedness, issued under the order of approval; and
2. The extent to, and in detail, the manner in which the proceeds thereof have been disbursed.

Historical Note

Formerly Administrative Order 14:235.

Cross References

See Section 5.9 (Petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages) and 5.14 (Petitions for approval of a merger or consolidation) of Chapter 1 of this Title.

14:11-1.8 (Reserved)

Historical Note

Formerly Administrative Order 14:250.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Section was formerly "New grade crossings."

14:11-1.9 (Reserved)

Historical Note

Formerly Administrative Order 14:255.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Section was formerly "Protection at railroad grade crossings."

14:11-1.10 Reporting threatened interruptions of service

Whenever any public utility shall be served by the State Highway Department with a notice pursuant to N.J.S.A. 27:7-26, or pursuant to any Executive Department directive, it shall otherwise be put upon notice of any facts, actual or threatened, which in either event may adversely affect its ability to render safe, adequate and proper service, such

public utility shall forthwith report the pertinent facts to the Board, in writing.

Historical Note

Formerly Administrative Order 14:263.

14:11-1.11 (Reserved)

Historical Note

Formerly Administrative Order 14:265.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Timetable changes of passenger train service".

14:11-1.12 Changes in rates of depreciation

(a) No public utility shall make any changes or variations in the rates of depreciation until such action is approved by the Board. Competitive services, as described in the Telecommunications Act of 1992, P.L. 1991, c.428, are exempt from this provision.

(b) Every public utility that proposes to make any changes or variations in the rates of depreciation shall file a petition requesting such changes or variations not less than 90 days in advance of the proposed effective date of such changes or variations.

Historical Note

Formerly Administrative Order 14:270.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Added exception for competitive services.

Cross References

See Section 5.7 (Petitions for authority to change depreciation rates) of Chapter 1 of this Title.

14:11-1.13 Rate adjustment

(a) Unless otherwise ordered or permitted by the Board, in every instance where a utility, subject to the jurisdiction of the Board, has filed or may hereafter file, with the approval of the Board, a clause in its tariff providing for an adjustment to its rates for a utility service or product based upon changes in the cost of a basic raw material (sometimes known as a coal or fuel clause or a raw materials or purchased gas adjustment clause), it shall conform to the following requirements whenever an adjustment would become effective thereunder which would result in charges being imposed for the utility service or product that would differ from the basic rates:

1. Not less than seven days prior to the date upon which the initial or any subsequent adjustment is to become effective, a supplemental tariff sheet shall be filed setting forth the amount of the adjustment for each

classification of service and the proposed effective date thereof.

2. The filing of the supplemental tariff sheet as provided in paragraph 1 of this subsection shall be accompanied by a detailed calculation showing for each class of service the calculation by which the proposed adjustment was derived, the amount by which the said adjustment will increase or decrease utility operating revenues on an annual basis, and the amount by which the change in the basic raw material cost will increase or decrease operating revenue deductions on an annual basis.

3. The filing of the supplemental tariff sheet referred to in paragraph 1 of this subsection shall also be accompanied by any additional information which the Board may have required in any order or other authorization by which the adjustment clause was permitted to be filed, or which the Board may hereafter require with respect to such a filing.

Historical Note

Formerly Administrative Order 14:285.

Case Notes

Misuse of Purchased Gas Adjustment Clause by gas company and appropriate remedies are under exclusive jurisdiction of the Public Utilities Commission; no action permitted by consumers under the Consumer Fraud Act. *Daaleman v. Elizabethtown Gas Co.*, 77 N.J. 267, 390 A.2d 566 (1978).

Fuel adjustment clause can be implemented only after rate making proceeding; Board cannot approve such clause in an abbreviated proceeding absent a finding that the petitioning utility sustained a net loss in the preceding 12 months and that granting the proposed rates would not provide a net profit over the succeeding 12 months. In re: *Revision of Rates by Redi-Flo Corp.*, 76 N.J. 21, 384 A.2d 1086 (1978).

Philosophy behind fuel adjustment clauses; prior practice required utility to calculate increased energy cost with a three month delay, submit to Board for approval; procedure changed due to dissatisfaction caused by price fluctuations. In re: *Rockland Electric Co.*, 4 N.J.A.R. 365 (1982).

14:11-1.14 Telegraph company registration

(a) Every telegraph company operating within New Jersey shall register with the Board the names and addresses of all lessees and users of tickers, teleprinters and other terminal equipment located within the State of New Jersey and used in connection with the following classes of telegraph service:

1. Leased facilities, other than facilities for the press, with which the lessee disseminates racing news;
2. Leased facilities used by the press to send or receive racing news;
3. Sports ticker service, a service where the telegraph company originates the information;
4. Stock and commodity tickers.

(b) If changes in the location of registered equipment occur, the Board shall be notified within 30 days of such changes.

(c) The Board determines that the following facilities are exempt from registration under the terms of the statute:

1. Means of communication between offices of telegraph company;
2. Means of communication, including patron's tie-lines, between offices of the telegraph company and offices of recognized general commercial customers.

(d) The list of registrations required in this Section shall be available to the Attorney General, county prosecutors and municipal police departments.

Historical Note

Formerly Administrative Order 14:290.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Stylistic changes.

14:11-1.15 Sale or lease of property

(a) Where a property to be sold or leased has a book or market value not exceeding \$100,000 the petition for the sale or lease of said property, which shall be verified and supported by such proofs as may be required by the Board, shall be acted upon the Board on the basis of a staff report signed by the executive officer of the Board or his assistant concurred in by one of the counsel assigned to the Board, containing:

1. A finding that the approval of the petition will not adversely affect the ability of the utility to properly serve the public or otherwise prejudice the public interest; and
2. A recommendation that the petition be approved without hearing. Where approval without hearing is not recommended, the petition will be placed on the Board's agenda for disposition.

(b) Regardless of the recommendation referred to in (a)2 above, the Board may, in its discretion, require that the petition for the sale or lease of property be placed on the Board's agenda for disposition.

Historical Note

Formerly Administrative Order 14:298.

Amended by R.1987 d.116, effective January 27, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Book or market value raised from \$20,000 to \$100,000. Substituted "agenda for disposition" for "calendar for public hearing".

Cross References

See Section 5.6 (Petitions for the approval of the sale or lease of property) of Chapter 1 of this Title.

14:11-1.16 (Reserved)**Historical Note**

Formerly Administrative Order 14:299.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Public notices".

14:11-1.17 (Reserved)**Historical Note**

Formerly Administrative Order 14:300.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Filing operating time schedule changes".

SUBCHAPTER 2. (RESERVED)**Historical Note**

Pursuant to the reorganization plan for the Board of Public Utilities and the Department of Transportation (1978) and R.1982 d.30, N.J.A.C. 14:11-2.1 and 2.3 through 2.40 were recodified as N.J.A.C. 16:53-2.1 and 2.3 through 2.40, and N.J.A.C. 14:11-2.41 was duplicated and codified as N.J.A.C. 16:53-2.41.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This subchapter was "Autobus Specifications".

SUBCHAPTER 3. (RESERVED)**Historical Note**

Formerly Administrative Orders 14:213 and 14:214.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This subchapter was "Certificates".

SUBCHAPTER 4. (RESERVED)**Historical Note**

Formerly Administrative Order 14:245.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This subchapter was "Railroads—Grade Crossing Elimination".

SUBCHAPTER 5. REPORTING ACCIDENTS**Historical Note**

Formerly Administrative Order 14:260.

14:11-5.1 Scope

Unless otherwise ordered or permitted by the Board, the instructions contained in this subchapter shall apply to the reporting of accidents.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Stylistic changes.

14:11-5.2 (Reserved)

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Railroads".

14:11-5.3 (Reserved)

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Autobuses and Street cars".

14:11-5.4 All utilities

(a) Each utility shall keep a record of and report to the Board all accidents which come within the meaning of reportable accidents, as hereinafter defined, occurring in connection with the operation of the utility's plant, property or facilities within the State.

(b) For the guidance of each utility, a reportable accident is defined as an accident, other than a motor vehicle accident which does not create a service interruption, that results in one or more of the following circumstances:

1. Death of a person;
2. Serious disabling or incapacitating injuries to persons, including employees of the company;
3. Damage to the property of the company which materially affects its service to the public;
4. Damage to the property of others amounting to more than \$1,000.

(c) The Board shall be notified by the speediest, most feasible and practical means of communication available, followed by a detailed written report, as hereinafter set forth, of all reportable accidents which are clearly reportable and those which there is good reason to believe may result in "reportable accidents" as defined herein. If such notification is not given in any case for the reason that the accident is not considered reportable and it subsequently develops that the accident is reportable, the utility involved shall notify the Board immediately after it has been ascertained that such accident is reportable. A written report should then follow.

As amended, R.1975 d.8, eff. January 17, 1975.

See: 6 N.J.R. 451(c), 7 N.J.R. 62(a).

Case Notes

Plaintiffs in civil action entitled to examine accident reports made by Board and submitted by gas company, either under the Right to Know Law or the common law right of citizens to inspect public records. *Irval Realty, Inc. v. Bd. of Public Utility Commissioners*, 61 N.J. 366, 294 A.2d 425 (1972).

14:11-5.5 Corrective measures and recommendations

If at the time of the submission of the written accident report the utility is unable to state the corrective measures taken or make recommendations to avoid a recurrence of the accident, the utility shall within 30 days of the date of the accident file a report which shall set forth the aforementioned corrective measures and recommendations. This report shall show the same accident report number as the original accident report.

14:11-5.6 Numbering reports

Accident reports shall be numbered serially, by year commencing with January 1, 1959. Illustration: 59-1, 59-2, and so forth.

14:11-5.7 Accident reports use

Accident reports may be used by the Board in determining what safety practices should be recommended. In a proceeding before the Board, accident reports shall be evidential only at the discretion of the Board.

ADM.ORD. 14:260

**SAMPLE ACCIDENT REPORT FORM—
ALL UTILITIES**

REPORT OF ACCIDENTS

Report No. _____

Name of Reporting Utility: _____

Date of Accident: _____ Time of Day _____

Place of Accident: _____

Details of Casualties to Persons: _____

Details of Effects on Service: _____

Details of Accident (Nature and Cause): _____

Corrective Measures: _____

Recommendations to Avoid Recurrence: _____

SIGNED: _____ TITLE: _____ DATE: _____

Amended by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Sample Accident Form No. 501 entitled Autobuses and Street Cars and Report of Railway Accidents are deleted from code. The Sample Accident Report Form entitled All Other Utilities is amended to read All Utilities.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Accident reports not available as evidence in civil proceeding.

SUBCHAPTER 6. (RESERVED)**Historical Note**

Formerly Administrative Order 14:275.

Repealed by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

This section was "Common Carrier Tariffs".

SUBCHAPTER 7. PUBLIC UTILITY TARIFFS**Historical Note**

Formerly Administrative Order 14:280.

14:11-7.1 Scope

This subchapter shall govern the arrangement, filing and posting of tariffs (that is, complete systems of schedules), schedules, rates, tolls and other charges, including standard terms and conditions, and special contracts, by public utilities.

Amended by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Deleted text "other than transportation common carriers".

Case Notes

Limitation of liability clause in telephone company's filed tariff did not limit its liability to non-customer amusement pier owner who sustained damage due to failure of fire alarm system to operate due to telephone company circuitry. *Abel Holding Co., Inc. v. American District Telegraph Co.*, 147 N.J.Super. 263, 371 A.2d 111 (App.Div. 1977).

14:11-7.2 General

(a) Every public utility shall file with the Board and keep open to public inspection in each office where applications for service may be made, tariffs applicable to its affected service area, showing all rates and charges made, established, or enforced, or to be charged or enforced, all rules and regulations relating to rates and charges or services used or to be used, and all general privileges and facilities granted or allowed. The same shall be readily accessible to the public at all times during office hours, and on demand by any person shall be produced for examination immediately.

(b) All tariffs legally filed with the Board and now in effect shall continue in force until legally changed. All tariffs and amendments thereto, hereafter filed, shall conform to this subchapter. The Board may direct the reissue or modification, as to form, of any tariff or any part thereof at any time.

(c) All new tariffs submitted to the Board shall be filed to conform with the format and language as outlined in N.J.A.C. 14:11-7.3 and 7.4.

Amended by R.1990 d.5, effective January 2, 1990.

See: 21 N.J.R. 2704(b), 22 N.J.R. 48(a).

New (c) added requiring conformation of format and language.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

In (c), deleted all references to tariffs, except 7.3 and 7.4.

Case Notes

Operator was liable for certain taxes and escrow accounts on solid waste disposed in its facilities under joint order issued by Department of Environmental Protection and Board of Public Utilities requiring landfill to remain open beyond intended closing date and requiring operator to extend credit to cash-based haulers in amount of rate increase. *Edgeboro Disposal, Inc. v. Division of Taxation*, 284 N.J.Super. 208, 664 A.2d 942 (A.D.1993).

Utility subject to Board's supervision concerning hours of operation. *Public Utilities Bd. v. Helen Kramer Sanitary Landfill*, 171 N.J.Super. 500, 410 A.2d 70 (App.Div.1979).

Telephone user charged with knowledge of tariff; company need not advise user of loss of charitable discount upon switching phone systems, as failure to advise not intentionally misleading; company decision not to extend charity discount to users of new systems found non-discriminatory. *Essex Cty. Welfare Bd. v. New Jersey Bell Telephone Co.*, 126 N.J.Super. 417, 315 A.2d 40 (App.Div.1974).

Operator of sanitary landfill was liable for certain taxes and escrow accounts on solid waste disposed in its facilities and accepted pursuant to joint order issued by Department of Environmental Protection and Board of Public Utilities that required landfill to remain open beyond its intended closing date. *Edgeboro Disposal, Inc. v. Division of Taxation*, Dept. of Treasury, 15 N.J.Tax 139 (A.D.1993).

14:11-7.3 Arrangement and form of filed schedules

(a) All sheets of schedules shall be clearly printed, mimeographed, typewritten or reproduced by any photographic process on hard finished, durable paper of 8½ x 11 inches in size, except that, with the approval of the Board, the requirement as to size of sheet may be modified where the content and arrangement of material are not readily adaptable to the size specified. Reproductions by hectograph or similar process shall not be used for filing with the Board or for public inspection. The left-hand margin of each sheet shall be sufficiently wide that when the binder containing the sheets is open, all printed material is clearly in view. All sheets shall be bound in loose-leaf form so that changes can be made by substituting or inserting a single sheet.

(b) The first tariff or series of schedules issued by a utility in conformity with the requirements of this subchapter for each kind of utility service supplied, shall be designated as P.U.C. No. 1—(electricity, gas, and so forth). This designation shall appear as part of the caption of each schedule sheet, directly under the company name at the upper left-hand corner. When a tariff is refilled in toto it should be given the next consecutive number.

(c) Each tariff shall consist of:

1. A standard title page;
2. A table of contents;
3. Municipalities or territories served;
4. The standard terms and conditions governing service; and
5. The set of rate schedules.

i. All rates which a given kind of service, such as electric, gas, and so forth, is available throughout the service area of a utility shall be included in a single tariff. General exchange, local exchange and toll service, and so forth, may be regarded as a separate kind of utility service for the purposes of this provision. The rates for each separate and distinct class of service rendered by a utility shall be filed as a separate schedule and shall whenever feasible and practical begin on a separate sheet.

(d) The schedule of rates for each separate and distinct class of service shall have assigned to it a schedule number, descriptive initials, or other appropriate designation, which shall be assigned so as to facilitate reference to the rate schedules.

(e) Each sheet of every tariff shall bear a sheet number, or section and sheet number, which shall be placed in the upper right-hand corner of the sheet in a position opposite the name of the company, except that, where separate sheets are filed for each of a given number of specified areas, designation by area may be used in lieu of a sheet number. Upon the first filing of the sheet it shall be designated as Original Sheet No. ____, or Original Sheet where no number is required. This same sheet number, or section and sheet number, shall appear on all subsequent issues of the sheet, and the revisions of the sheet shall be numbered, as follows:

1. On the first revision of the sheet shall be designated:

FIRST REVISED SHEET NO. ____

SUPERSEDING

ORIGINAL SHEET NO. ____

2. On the second revision of the sheet shall be designated:

SECOND REVISED SHEET NO. ____

SUPERSEDING

FIRST REVISED SHEET NO. ____

3. On all subsequent revisions the sheet shall bear consecutive revision numbers and shall indicate the cancellation of the superseded sheet, tariff, or portion thereof. Revision numbers used on sheets disapproved or rejected by the Board shall not be repeated on refiling, but the next consecutive number shall be used.

4. When a schedule of rates is filed for a class of service not heretofore established, an original sheet number shall be assigned to the sheet on which the new rates appear.

5. In the arrangement of the tariff it will be recognized that it may be necessary in the future to file additional schedules of rates within the established series.

To provide a proper place for these subsequent filings in proper relation to schedules, terms and conditions, and so forth, already filed, reservation of sheet numbers may be made at time of original filing.

6. In lieu of this arrangement, the tariff may be divided into numbered sections, and the sheets in each section numbered consecutively beginning with Sheet 1.

7. When tariffs are to be revised in conformity with an order or authorization of the Board, the changes made pursuant thereto shall be established by supplements to or reissues of the tariff or tariff sheets affected, filed and posted as provided in this subchapter. Each page containing rates or provisions established pursuant to such order or authorization shall bear the following notation:

"Filed pursuant to (here insert nature of authorization including docket number if any) of the Board of Regulatory Commissioners, State of New Jersey, dated ____."

(f) The title page of each tariff shall show the P.U.C. number, the kind of service for which the tariff is available, the territory or area served, and the complete name and address of the utility and the officer thereof issuing the tariff.

(g) The table of contents of each tariff, except tariffs using the section or area designation method, shall contain a complete and accurate list of contents by schedule number, description of class of service, and sheet numbers. Whenever a new schedule of rates or new sheet not already listed in the table of contents is added, the table of contents shall be revised to show the title of the new sheet, the schedule number and sheet number.

(h) Describe all territory covered by the tariff by naming the cities, villages, towns and hamlets. Indicate the counties and towns in which such places are situated. A map showing the territory to be served is desirable but not required.

(i) Each utility shall include in its filed tariff a complete set of standard terms and conditions relating to the service offered. The subjects which commonly will be covered are suggested by the prescribed form appearing later in this order. Such standard terms and conditions shall be filed on standard sheets consecutively numbered or in consecutive sections with the sheets of each section consecutively numbered, following the Table of Contents.

(j) All schedules of rates shall be filed on standard sheets, arranged substantially in the manner prescribed by the form of rate schedule sheet. For telephone companies the following information shall be given:

1. Exchange rate schedules to include:
 - i. Primary rate schedules;
 - ii. Private branch exchange; rate schedules;

- iii. Miscellaneous rate schedules;
- iv. Primary rate area maps;
- v. Exchange area maps.

2. Toll service rate schedules to include:

- i. Basic rate schedules;
- ii. Supplementary rate schedules;
- iii. List of toll points.

Amended by R.1987 d.116, effective February 17, 1987.

See: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Changed Utility Commissioners to Utilities; added territories; (j)3 deleted.

Amended by R.1993 d.95, effective March 1, 1993.

See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Changed Board of Public Utilities to Board of Regulatory Commissioners.

Case Notes

Utility subject to Board's supervision concerning hours of operation. *Public Utilities Bd. v. Helen Kramer Sanitary Landfill*, 171 N.J.Super. 500, 410 A.2d 70 (App.Div.1979).

14:11-7.4 Selection of rate schedule

Where more than one rate schedule is available to particular customers, each utility shall have at all times the duty to assist such customers in the selection of the rate schedule most favorable for their individual requirements and to make every reasonable effort to insure that such customers are served under the most advantageous schedule. Each such utility shall include among the terms and conditions of its tariff the provision that it will assist such customers in the selection of the rate schedule most favorable for their individual requirements.

Cross References

Advising customers, alternative services, see also N.J.A.C. 14:10-1.2.

Case Notes

Utility properly billed customer for sewer service. *Deutsch v. New Jersey-American Water Company*, 96 N.J.A.R.2d (BRC) 17.

Telephone circuits running over distribution facilities on utility side of demarcation point were not inside wire for rate purposes. *Monmouth Medical Center v. New Jersey Bell Telephone*, 95 N.J.A.R.2d (BRC) 8.

Electric utility rate proceeding stipulation substantially adopted; \$5.1 million dollar annual revenue increase approved. In *Matter of Petition of Rockland Electric Company*, 92 N.J.A.R.2d (BRC) 61.

Implementation of 1991 amendments to Gross Receipts and Franchise Tax statutes. In *Matter of Implementation of P.L. 1991, C. 184*, 92 N.J.A.R.2d (BRC) 53.

Consolidated tax adjustment and rate proceeding stipulation adopted. In *Matter of Petitions of New Jersey Gas Company*, 92 N.J.A.R.2d (BRC) 49.

14:11-7.5 Forms

Forms illustrative of the requirements of this subchapter follow.

Amended by R.1987 d.116, effective February 17, 1987.
Sec: 18 N.J.R. 2425(b), 19 N.J.R. 365(a).

Throughout the forms, P.U.C. is changed to B.P.U. and Public Utility
Commissioners is changed to Public Utilities.

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

Original Sheet No. 1

B.P.U. No.1—WATER

TABLE OF CONTENTS

Territory Served	Sheet No. 2
Standard Terms and Conditions	Sheets No. 3 to 7 incl. (Use as many sheets as required)
Rate Schedules as listed below:	

STANDARD WATER COMPANY

TARIFF

for
WATER SERVICE

Applicable in
STANDARD PARK
MIDDLESEX COUNTY, NEW JERSEY

Applicable:

To	For	Rate Schedule	Sheet No
High Service Area	General Metered	1	8
High Service Area	Fixture Rate	2	10
Low Service Area	General Metered	3	11
Low Service Area	Fixture Rate	4	13

Issued: (date)

By: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

Original Sheet No. 2

TERRITORY SERVED

Describe here all territory covered by the tariff by naming the cities, villages, towns and hamlets. Indicate the counties and towns in which such places are situated. A map showing the territory to be served is described but not required.

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

Original Sheet No. 3

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

Original Sheet No. 8

STANDARD TERMS AND CONDITIONS

(a) A full and complete statement of all rules, regulations, terms and conditions relating to rates, charges of service used or to be used which apply generally in connection with the service supplied together with all general privileges and facilities granted or allowed. Each such rule, regulation, etc., shall constitute a separate section or paragraph. The paragraphs shall be numbered consecutively and where possible shall be given appropriate headings such as: 2. Definitions—(Mark sub-paragraphs 2.1, 2.2, 2.3, etc); 3. Applications; 4. Customers' Deposits; etc.

(b) General rules and regulations as to services, meters, wiring, connection and disconnection of service (not including detailed specifications, which may be included in a separate pamphlet and referred to herein).

(c) Such other information in regard to the rates, charges or service, or practices relative thereto as in the opinion of the issuing utility should be published. This information shall be paragraphed and numbered under suitable headings.

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

RATE SCHEDULE NO. 1 (or other designation)	
Applicable to Use of Service for: (Here state clearly the use or uses of the service.)	
Character of Service: (Service available at any and all times should be designated "Continuous". When available only at certain specified hours of the day or season of the year, "Limited Period". When to be furnished at such times and in such quantities as producer desires to sell, "Dump". When to be furnished whether continuously or during limited periods for use in conjunction with customer's own plant, "Auxiliary", except in cases of breakdown of customer's plant, in which case it should be designated "Breakdown".)	
Rate: (The base or unit price or prices or series of unit prices used in computing the total charge to customer. If any surcharge applies, that fact should be stated at this point.)	
Minimum Charge: (Here state clearly the amount of minimum charge in dollars, and the period which it covers. If there is no minimum charge, so state. If prompt payment discounts do not apply to minimum charge, the word "net" should be used in connection with such minimum charge.)	
Determination of Demand: (This heading need not be included except in connection with rates in which the demand is an element. In such case, the manner in which the demand is determined must be clearly explained.)	
Terms of Payment: (Here state what discounts or reductions, if any, are allowed on account of payment within a specified period. Care should be used to make perfectly clear how the discount is determined. If no discount be allowed, this may be indicated by the use of the expression "Net Cash".)	

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

Original Sheet No. 9

RATE SCHEDULE No. 1 (CONT'D)	
Term: (Here state such requirements as may reasonably apply relative to the discontinuance of the service at the request of the customer.)	
Special Provision: Here state or refer to all special provisions or contract clauses which may be applied to or affect this schedule. Each such provision or contract clause should be lettered "a", "b", "c", etc. Where reference is made to special provisions shown elsewhere than in the rate schedule, such reference must definitely state the sheet on which such provisions appear. General provisions relating to all schedules shall be shown in the Standard Terms and Conditions.	

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective: (date)

STANDARD WATER COMPANY
B.P.U. No. 1—WATER

First Revised Sheet No.
Cancelling
Original Sheet No.

RATE SCHEDULE NO. 1

(Here set forth the new text or rates that will apply after the new effective date.)

(The revised schedule must be complete in itself as the cancelled sheet is removed from the filed tariff.)

Date of Issue: (date)
Issued by: John Doe, President
691 Broadway
New Brunswick, N.J.

Effective (date)

Tariff sheets which are revised in accordance with an order or authorization of the Board should carry a footnote in the following style:

Filed pursuant to decision of Board of Public Utilities in Docket No. 4664,
dated January 1, 1952.

14:11-7.6 (Reserved)

New Rule: R.1990 d.5, effective January 2, 1990.
See: 21 N.J.R. 2704(b), 22 N.J.R. 48(a).
Repealed by R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).
Rule was Solid Waste Uniform Tariff; definitions.

14:11-7.7 (Reserved)

New Rule: R.1990 d.5, effective January 2, 1990.

See: 21 N.J.R. 2704(b), 22 N.J.R. 48(a).
Repealed by R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).
Rule was Tariff terms and conditions.

14:11-7.8 (Reserved)

New Rule: R.1990 d.5, effective January 2, 1990.
See: 21 N.J.R. 2704(b), 22 N.J.R. 48(a).
Repealed by R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).
Rule was Directions for filing solid waste tariffs.

14:11-7.9 (Reserved)

New Rule: R.1990 d.5, effective January 2, 1990.
See: 21 N.J.R. 2704(b), 22 N.J.R. 48(a).
Repealed by R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).
Rule was Solid waste uniform tariff forms.

14:11-7.10 (Reserved)

New Rule, R.1993 d.508, effective October 19, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).
Recodified to 7:26H-4.10 by R.1996 d.253, effective June 3, 1996.
See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).
Section was, "In-lieu payment rates for solid waste".

SUBCHAPTER 8. (RESERVED)**Subchapter Historical Note**

Subchapter 8, Natural Gas, was recodified as 14:7-1 effective June 19, 1995 by R.1995 d.303. See: 27 N.J.R. 870(a), 27 N.J.R. 2428(a).