

v. The amount of interest charged to income during previous fiscal year upon each kind of indebtedness and rate thereof; and, if different rates were charged, the amount charged at each rate;

vi. The amount of dividends paid upon each class of stock during the previous calendar year and rate thereof; and

vii. A detailed income statement for the previous calendar year and balance sheet showing conditions at the close of that year;

10. A statement whether any franchise or right is proposed to be capitalized directly or indirectly. In case it is proposed to capitalize any franchise as authorized by N.J.S.A. 48:3-5, a copy of such franchise and a statement, together with an affidavit showing the amount actually paid for said franchise shall be attached to the petition;

11. Where any contract, agreement or arrangement, verbal or written, has been made to sell the securities proposed to be issued, a description of such contract, agreement or arrangement and, if in writing, a copy thereof;

12. If no contract, agreement or arrangement has been made for the sale or other disposition of the securities proposed to be issued, the proposed method of sale or other disposition must be set forth together with an affidavit of a competent person showing the amount which can probably be realized from the sale and disposition thereof, and the reasons for the opinion of the affiant;

13. Petitions filed under this rule shall contain a certified copy of the resolution of the Board of Directors or other authority authorizing the proposed issuance of securities and shall be verified. The verification shall include a statement that it is the intention of the petitioner in good faith to use the proceeds of the securities proposed to be issued for the purposes set forth in the petition; and

14. Information which under this rule is required to be set forth in a petition or any exhibit attached thereto and which is contained in any report, document, pleading or other instrument previously filed with the Board pursuant to any requirement of any statute or any rule of the Board, may be incorporated in such petition or exhibit by reference to the official filing thereof with the Board provided that said information is still correct in all respects.

Amended by R.1997 d.264, effective July 7, 1997.

See: 29 N.J.R. 1259(b), 29 N.J.R. 2838(a).

In (a)9vi and vii, substituted "calendar year" for "fiscal year".

**Case Notes**

Water company authorized to issue and sell debentures through competitive bidding, with the inclusion of a "negative pledge". In the

Matter of the Petition of Elizabethtown Water Co. for Authority to Issue and Sell up to \$50,000 of Debentures, 94 N.J.A.R.2d (BRC) 45.

Water utility authorized to sell preferred stock for purpose of purchasing second utility. In Matter of Application of Middlesex Water Company, 93 N.J.A.R.2d (BRC) 34.

Private placement of bond offering authorized for gas utility. In Matter of Petition of South Jersey Gas Company, 92 N.J.A.R.2d (BRC) 41.

**14:1-5.10 Petitions for authority to transfer capital stock**

(a) Petitions for authority to transfer upon the books and records of any public utility, pursuant to N.J.S.A. 48:3-10, any share or shares of its capital stock, shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. The name and address of the proposed transferor and transferee;
2. A description of the proposed transferee including information as to whether the proposed transferee is a public utility, a holding company either separately or by affiliation in a utility holding company system, or a person or other domestic or foreign corporation;
3. A description of the capital stock proposed to be transferred including the class of shares, number of shares and the par or stated value thereof;
4. The percent in interest of the outstanding voting capital stock of the public utility which the proposed transfer, either by itself or in connection with other previous sales or transfers, will vest in the transferee;
5. The reason for the proposed transfer;
6. Details and explanation of any changes expected to be made, if the petition is approved, in:
  - i. The board of directors;
  - ii. Officers and active managers; and
  - iii. Company policies with respect to its operations, financing, accounting, capitalization, rates, depreciation, maintenance, services and any other matters affecting the public interest; and
7. The qualifications and the business or technical experience of the proposed officers, directors and stockholders, or other principal management and operating personnel with particular respect to their ability to carry out the utility's obligation to render safe, adequate and proper service.

**14:1-5.11 Tariff filings which do not propose increases in charges to customers**

(a) Tariff filings for the purpose of making effective initial tariffs or revisions, changes or alterations of existing tariffs and which are not filed because of the need for additional revenue from products or services covered by

existing tariffs and which do not propose increases in charges to customers, shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Four copies of the proposed tariff or revision, change or alteration thereof, together with an explanation of the manner in which the tariff or change differs from the existing or prior tariff, and the effect, if any, upon revenue;
2. A statement of the reasons why the tariff or change is proposed to be filed;
3. A statement of notices given, if any, together with a copy of the text of each said notices;
4. A statement as to the date on which it is proposed to make the tariff or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Board; and
5. In the case of initial tariffs, pro forma income statements for each of the first two years of operations and actual or estimated balance sheets as at the beginning and end of each year of said two-year period.

#### Case Notes

Unilateral rate discount requested by a customer over the objection of a utility denied. In the Matter of the Petition for Expedited Decision and Order Approving Proposed Tariff, 94 N.J.A.R.2d (BRC) 143.

Proposed Indigenous Refinery Gas Conversion Service tariff and Gross Receipts and Franchise Tax approved. In the Matter of the Petition of Public Service Electric and Gas Co. for Approval of Tariff, 94 N.J.A.R.2d (BRC) 129.

Sewage company's motion to reduce volumetric treatment rate denied. In the Matter of the Petition of Atlantic City Sewage Company for Approval of Increased Tariff Rates, 94 N.J.A.R.2d (BRC) 21.

Customer request interrupt service rate; no basis for stay pending appeal. In Matter of Filing by New Jersey Bell Telephone Company of Revision of Tariff B.P.U.—N.J. No. 2, 93 N.J.A.R.2d (BRC) 33.

#### 14:1-5.12 Tariff filings or petitions which propose increases in charges to customers

(a) Tariff filings or petitions for the purpose of making effective or making revisions, changes or alterations of existing tariffs which propose to increase any rate, fare, toll, rental or charge or so to alter any classification, practice, rule or regulation as to result in such an increase, other than filings to effectuate the operation of an existing fuel or raw materials adjustment clause, shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, contain all applicable information and data set forth in N.J.A.C. 14:1-5.11 and, in addition, shall contain the following information and financial statements which shall be prepared in accordance with the applicable Uniform System of Accounts:

1. A comparative balance sheet for the most recent three-year period (calendar year or fiscal year);
2. A comparative income statement for the most recent three-year period (calendar year or fiscal year);
3. A balance sheet at the most recent date available;
4. A statement of the amount of revenue derived in the calendar year last preceding the institution of the proceedings from the intrastate sales of the product supplied, or intrastate service rendered, the rates, tolls, fares or charges for which are the subject matter of the filing;
5. A pro forma income statement reflecting operating income at present and proposed rates and an explanation of all adjustments thereon, as well as a calculation showing the indicated rate of return on the average net investment for the same period as that covered by the pro forma income statement, that is, investment in plant facilities plus supplies and working capital to the extent claimed, less the reserve for depreciation and advances and contributions for facilities;
6. If the request for rate relief is based upon N.J.S.A. 48:2-21.2, there shall be included, in lieu of the requirements of (a)5 above, a statement showing that the facts of the particular situation meet the statutory requirements;
7. Whenever a telephone company seeks to increase its rates, it shall include in its petition or attachments thereto information demonstrating the principles of rate design employed in the proposed tariff revisions. Such information shall identify the approximate percentage of increased revenue requirement, should the Board determine a lesser additional revenue requirement than that sought by the company, at which it would derive a different proportion of revenue requirement from each of the major classes of service whose prices are sought to be increased, and the revenue requirement by class at each such level. The information shall include a statement of the amount and percentage of increase which would be raised from each such class of service if relief of approximately one-third the request were approved by the Board;
8. In providing the information required by (a)5, 6 and 7 above, a company may also file, in addition to the new rates proposed to become effective, alternative rate changes designed to produce the full revenue request, which alternatives are illustrative of the application of other possible rate designs to the filing;
9. An itemized schedule showing all payments or accruals to affiliated companies or organizations and to those who own in excess of five percent of the utility's capital stock regardless of the form or manner in which such charges are paid or accrued and an explanation of the service performed for such charges; and
10. A copy of the form of notice to customers.

(b) Each utility that makes a filing under (a) above shall, unless otherwise ordered or permitted by the Board, give notice thereof as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered a service, the charge for which is proposed to be increased, the clerk of the Board of Chosen Freeholders of each affected county and, where appropriate, the executive officer of each affected county;

2. Serve a notice of the filing and two copies of the petition or tariff on the Department of Law and Public Safety, 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101 and on the Director, Division of the Ratepayer Advocate, 31 Clinton Street, P.O. Box 46005, Newark, New Jersey 07101;

3. Serve a notice of the filing and a statement of the effect on customers of various classes on all current customers who are billed on a recurring basis and who will be affected by said filing. Such notice may be by bill insert or by publication in newspapers published and circulated in the utility's service area.

(c) Each utility that makes a filing under (a) above shall, after being advised by the Board of the time and place fixed for hearing, if any and unless otherwise ordered or permitted by the Board, serve notice at least 20 days prior to such time on those persons specified in (b)1 and 2 above; and shall give such notice to those persons designated in (b)3 above as current customers billed on a recurring basis, by bill insert or by publication 20 days prior to the date set for hearing, in newspapers published and circulated in the utility's service area.

(d) The notices provided for in (b) and (c) above may be given simultaneously.

(e) Where notice is prescribed under this rule, it shall be at the cost and expense of the party obligated to give or serve the notice.

Amended by R.1997 d.264, effective July 7, 1997.  
See: 29 N.J.R. 1259(b), 29 N.J.R. 2838(a).

**Case Notes**

Solid waste disposal facility rate increase approved in order for operator to raise funds necessary to pay for closure measures and postclosure maintenance required by Department of Environmental Protection. In re: Petition of Landfill and Development Co., 207 N.J.Super. 5, 503 A.2d 881 (App.Div.1985).

Extension of time for examiner's report: discussion of rate proposal process. In re: Revision of Rates by Toms River Water Co., 82 N.J. 201, 412 A.2d 430 (1980).

All public utilities required to file rates and charges with Board; discussion of rate proposal process. In re: Revision of Rates by Toms River Water Co., 82 N.J. 201, 412 A.2d 430 (1980).

Citation as example that Board given discretionary power to require rate filings and to hold hearings thereon (cited as N.J.A.C. 14:1-16.1). In re: Revision of Rates by Redi-Flo Corp., 76 N.J. 21, 384 A.2d 1086 (1978).

Stipulations with respect to a change in depreciation rates for electric and gas properties were in public interest as affording a reasonable level of rate relief. Matter of Public Service Electric and Gas, 95 N.J.A.R.2d (BRC) 37.

Customer service pricing schedule set forth in program proposed by electric and gas utility for appliance parts service was not unreasonable as containing improper cross-subsidization. Matter of Customer Service Pricing Schedule, 95 N.J.A.R.2d (BRC) 23.

Remediation costs for manufactured gas plant were allocated to all gas customers except contract cogeneration customers via a unit charge based upon throughput. Matter of Public Service Electric and Gas Company, 95 N.J.A.R.2d (BRC) 19.

Costs incurred by electric utility in remediating current and former manufactured gas plant sites could be recovered from ratepayers via a remediation adjustment clause. Matter of Central Power and Light, 95 N.J.A.R.2d (BRC) 14.

Water company's ability to finance a water treatment plant; Safe Drinking Water Act. In the Matter of the Petition of Elizabethtown Water Co. for Approval to Implement Quarterly Rate Recovery, 94 N.J.A.R.2d (BRC) 127.

Sewage company was denied additional rate revenues. In the Matter of the Petition of Valley Road Sewage Company for an Approval of an Increase in its Rates, 94 N.J.A.R.2d (BRC) 79.

Denial of water company's proposed rate increase to cover cost of new project was proper. In the Matter of the Petition of New Jersey American Water Company for an Increase in Rates, 94 N.J.A.R.2d (BRC) 60.

Utility company's rate and tax increases were appropriate. In the Matter of the Petition of Jersey Central Power & Light Company, 94 N.J.A.R.2d (BRC) 49.

Power and light company's proposal to offer services and equipment to protect sensitive electronic equipment from power disturbances approved. In the Matter of Jersey Central Power & Light Co.'s Petition for Authorization to Implement a Conditioned Power Service Program, 94 N.J.A.R.2d (BRC) 41.

Power and light company's economic recovery tariff riders and programs approved. In the Matter of the Petition of Jersey Central Power & Light Company for Approval of Economic Recovery Tariff Riders, 94 N.J.A.R.2d (BRC) 39.

Board rejected Rate Counsel's proposals to modify telephone company's plan for an alternative form of regulation because the plan comported with the Board's prior decision and order. In the Matter of New Jersey Bell Telephone Company's Application for Approval of Its Plan for an Alternative Form of Regulation, 94 N.J.A.R.2d (BRC) 26.

Attempt to reopen a challenge to water and sewage billing practices and rates denied. Holiday Lake, Inc., et al. v. Montague Water Company, 94 N.Y.A.R.2d (BRC) 23.

Rate increase proposed by public utility company to cover reasonable remediation costs for manufactured gas plant sites would be granted. In the Matter of the Petition of Public Service Electric and Gas Company for Approval of an Increase in Rates, 94 N.J.A.R.2d (BRC) 1.

Electric utility was not entitled to recover interest related to Nuclear Performance Standard penalty incurred as result of substandard performance of nuclear generating units. In Matter of Motion of Public Service Electric and Gas Company, 93 N.J.A.R.2d (BRC) 149.

Increased gross receipts and franchise tax payments warranted grant to electric utility of rate increase. In Matter of Petition of Atlantic City Electric Company, 93 N.J.A.R.2d (BRC) 117.

Electric utility entitled to rate of return of 10.28 percent based upon allowed return on equity of 12.2 percent. In Matter of Petition of Jersey Central Power & Light Company, 93 N.J.A.R.2d (BRC) 85.

Settlement stipulation adopted in water utility rate proceedings; 4.863 percent increase in annual revenues over present pro forma revenues granted. In Matter of Petition of Elizabethtown Water Company, 92 N.J.A.R.2d (BRC) 81.

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.

Waste disposal rates; reasonableness of additional disposal and transportation costs; refunds for put-or-pay penalty charges; no refunds for failure to invoke Force Majeure clause; interim rate determined. In Matter of Petition of Bridgewater Resources, Inc., 92 N.J.A.R.2d (BRC) 27.

Contract between water utility and state water supply authority was prudent; interim rate adopted as permanent with slight reduction. In Matter of Petition of Adelpia Water Company, Inc., 92 N.J.A.R.2d (BRC) 16.

Electric utility sought energy adjustment and hotel casino service adjustment, sought to retain portion of fuel and energy savings resulting from purchase power agreement, and sought recovery of interest paid due to exclusion of power plant deferral and nuclear performance standard penalty amount from fuel underrecovery balance; partially denied and partially deferred. In Matter of Atlantic City Electric Company Tariff PUC NJ. No 9, 92 N.J.A.R.2d (BRC) 7.

Rate increase for sewer and water customers was reasonable. In Matter of Petition of New Jersey American Water Company, 92 N.J.A.R.2d (BRC) 1.

#### 14:1-5.13 Informal complaint in lieu of petition

(a) In lieu of filing a petition, an informal complaint may be made by letter or other writing.

(b) Matters thus presented may be taken up by the Board with the parties affected by correspondence or otherwise, in an endeavor to bring about an adjustment of the subject matter of the complaint without formal hearing order.

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

(d) Informal complaints are usually assigned to the Board's appropriate operating division which deals with the subject matter involved. This division then brings the matter to the attention of the utility and directs the latter to submit information deemed to be pertinent as well as a statement of its position.

(e) Following a study and review of the complainant's and utility's positions and supporting data and after such informal conferences as may be held, an attempt is made to affect an amicable adjustment of the dispute.

(f) A letter is then forwarded to the complainant with a copy to the utility reflecting the results, if any, of the processing of the informal complaint.

(g) Informal complaints shall be without prejudice to the right of any party to file a petition or of the Board to institute a formal proceeding.

(h) While informal complaints are recommended wherever practicable as a method designed for amicable adjustment of disputes, no mandatory or prohibitory order will be issued on an informal complaint.

(i) A party desiring a decision on order of the Board must file a petition.

Amended by R.1997 d.264, effective July 7, 1997.  
See: 29 N.J.R. 1259(b), 29 N.J.R. 2838(a).

#### 14:1-5.14 Petitions for approval of a merger or consolidation

(a) Petitions for approval of a merger or consolidation of one public utility of New Jersey with that of another public utility shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4 and 5.9, as well as N.J.A.C. 14:11-1.7, to the extent applicable, and shall contain in the petition, or as attached exhibits, the following information:

1. A copy of the agreement of merger or consolidation;
2. Copies of corporate resolutions of the stockholders of each of the corporations authorizing the transaction;
3. Copies of recent balance sheets of each company and a pro forma balance sheet of the continuing company;
4. Copies of recent income statements of the operation of each of the companies involved and a pro forma income statement of the continuing corporation, in sufficient detail;
5. Copies of certificates of incorporation of each corporation to be merged and amendments thereto, if not heretofore filed with the Board;
6. The total number of shares of each of the various classes of capital stock proposed to be issued, if any, by the surviving corporation; the par or stated value per share; and the total amount of new capital stock to be issued;
7. The percentage, and the manner in which, if any, the presently outstanding capital stock of the corporations involved will be exchanged for the new stock of the surviving corporation;