

CHAPTER 14

BOARD OF REGULATORY COMMISSIONERS

Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.1991 d.361, effective July 15, 1991.
See: 23 N.J.R. 640(a), 23 N.J.R. 2120(a).

Executive Order No. 66(1978) Expiration Date

Chapter 14, Board of Regulatory Commissioners, expires on July 15, 1996.

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SUBCHAPTER 1. GENERAL PROVISIONS

1:14-1.1 Applicability

The special rules in this chapter shall apply to contested case hearings arising before the Board of Regulatory Commissioners (BRC). Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these special rules are inconsistent with the U.A.P.R., these rules shall apply.

Administrative Change.
See: 23 N.J.R. 3647(a).

SUBCHAPTER 2. DEFINITIONS

1:14-2.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Judge” means an administrative law judge, the BRC or a single Commissioner of the BRC who presides over a contested case under N.J.S.A. 48:2-32.

“Public hearing” means a hearing conducted pursuant to N.J.S.A. 52:14B-4(g) because the law requires the hearing in conjunction with the contested case. It is not an “evidentiary hearing” or “plenary hearing” as defined in N.J.A.C. 1:1-2.1. It is a hearing to which the public is specifically invited to attend and express views, to provide comments or to raise objections to the subject matter being considered.

Administrative Change.
See: 23 N.J.R. 3647(a).

SUBCHAPTERS 3 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:14-5.1 Appearance by the BRC

The BRC may be represented by a deputy attorney general or a non-lawyer agency employee pursuant to N.J.A.C. 1:1-5.4(a).

Administrative Change.
See: 23 N.J.R. 3647(a).

(c) The Clerk shall notify the parties to the proceeding of any public hearing and shall ensure that the proceeding is stenographically transcribed.

(d) Persons opposing or supporting petitions or tariff schedules may testify at public hearings. The judge may permit the utility or other parties to cross-examine these persons. Persons who testify at public hearings shall not be entitled to notice of any subsequent proceedings unless they qualify as a participant or intervenor under N.J.A.C. 1:1-16.

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. TRANSMISSION OF CONTESTED CASES TO THE OFFICE OF ADMINISTRATIVE LAW

1:14-8.1 Transmittal to the OAL

In the transmittal form, as required by N.J.A.C. 1:1-8.2, the BRC shall indicate whether it will be a party to the proceeding and whether it will be represented by an agency employee pursuant to N.J.A.C. 1:1-5.4(a) or a deputy attorney general.

Administrative Change.
See: 23 N.J.R. 3647(a).

SUBCHAPTER 9. SCHEDULING; NOTICES

1:14-9.1 Notice of hearing

(a) Upon receiving notice of the time, date and place of hearing from the Clerk, in accordance with N.J.S.A. 48:3-17.7 a petitioner who has filed for authority to exercise the power of eminent domain shall give each respondent whose name and address is known at least 20 days notice of the hearing. At least five days prior to the hearing date, the petitioner shall file with the judge proof of such notice pursuant to N.J.A.C. 1:1-7.2.

(b) In any proceeding, the judge may require a party to give notice of the hearing and its scope to persons who may be affected by the proceeding, which may include publication and posting of notice of hearing, at such party's expense, in such manner and for such time and in such newspapers as the judge may designate.

1:14-9.2 Public hearings

(a) Whenever a public hearing is required by statute or rule the judge may instruct the utility to secure an appropriate location for the hearing and to accomplish whatever public notice may be required by statute or rule.

(b) Unless a statute requires otherwise or the judge directs otherwise for good cause shown, public hearings shall be conducted during the evening after regular business hours or at some other time which would be convenient to those persons interested in the subject matter of the public hearing.

SUBCHAPTER 10. DISCOVERY

Source and Effective Date

R.1994 d.451, effective September 6, 1994.
See: 26 N.J.R. 2513(a), 26 N.J.R. 3705(a).

1:14-10.1 Depositions

In addition to the discovery methods specified in N.J.A.C. 1:1-10.2(a), depositions upon oral examination or written questions of experts and other designated witnesses whose written testimony has been prefiled in the case shall be available upon written notice by a party in a ratemaking proceeding.

SUBCHAPTERS 11 THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:14-14.1 Prefiled testimony

(a) The judge may require that all parties prefile their direct testimony in writing, certified, verified or sworn to under oath. The schedule for the submission of this testimony shall be established by the judge to ensure a fair and expeditious hearing.

(b) The judge shall adjust the discovery schedule to facilitate the timely filing of prefiled direct testimony.

New Rule, R.1991 d.501, effective October 7, 1991.
See: 23 N.J.R. 2083(c), 23 N.J.R. 2998(c).

1:14-14.2 Cross-examination

The judge may restrict any cross-examination whose purpose appears to be primarily for discovery.

1:14-14.3 Transcripts

(a) In cases involving an order to show cause or an investigative order initiated by the BRC, respondents shall purchase an original and one copy of the transcript and shall provide the judge with a copy of the hearing transcript within 15 working days of the date of hearing. In all other cases, the petitioner shall provide the judge with a copy of the hearing transcript within 15 days of the hearing date.

(b) The party responsible for providing the judge with a copy of the transcript is responsible for the cost of the original and one copy of the transcript, the daily appearance fee of the court reporter and, when applicable, any costs associated with complying with N.J.A.C. 1:1-14.11(j).

(c) The judge may waive or modify the application of this rule at any time for good cause shown.

Administrative Change.
See: 23 N.J.R. 3647(a).

1:14-14.4 Interlocutory review

When a party requests interlocutory review, the BRC shall determine at its next regularly scheduled open meeting whether the order or ruling will be reviewed.

New Rule, R.1991 d.501, effective October 7, 1991.
See: 23 N.J.R. 2083(c), 23 N.J.R. 2998(c).

Administrative Change.
See: 23 N.J.R. 3647(a).

SUBCHAPTER 15. EVIDENCE RULES**1:14-15.1 Witnesses and prefiled testimony**

(a) Sworn, certified or verified written prefiled testimony of a witness may be admitted by the judge. Unless the parties consent to the admissibility of this written testimony without the necessity of an appearance, the witness shall appear at the hearing and be available for cross-examination on the prefiled written testimony.

(b) The judge may preclude any witness from testifying in a party's direct case when the witnesses' written testimony has not been filed in accordance with a schedule for such submissions established by the judge.

SUBCHAPTERS 16 THROUGH 21. (RESERVED)