

**TITLE 14**

**PUBLIC UTILITIES**

**CHAPTER 1**

**RULES OF PRACTICE**

**Authority**

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

**Source and Effective Date**

R.2008 d.79, effective March 3, 2008.  
See: 39 N.J.R. 4551(a), 40 N.J.R. 1917(a).

**Chapter Expiration Date**

Chapter 1, Rules of Practice, expires on March 3, 2013.

**Chapter Historical Note**

Chapter 1, Rules of Practice, was adopted and became effective prior to September 1, 1969. Chapter 1, Rules of Practice, expired February 14, 1991.

Chapter 1, Rules of Practice, was adopted as R.1992 d.224, effective June 1, 1992. See: 23 N.J.R. 2487(a), 24 N.J.R. 2063(c).

Pursuant to Executive Order No. 66(1978), Chapter 1, Rules of Practice, was readopted as R.1997 d.264, effective May 28, 1997. See: 29 N.J.R. 1259(b), 29 N.J.R. 2838(a).

Subchapter 11, Public Utility Tariffs, was recodified from N.J.A.C. 14:11-7 by R.1998 d.84, effective February 2, 1998. See: 29 N.J.R. 4250(b), 30 N.J.R. 563(a).

Chapter 1, Rules of Practice, was readopted as R.2002 d.337, effective September 19, 2002. See: 34 N.J.R. 1769(a), 34 N.J.R. 3639(a).

Subchapter 12, Procedures for Determining the Confidentiality of Submitted Information, was adopted as R.2003 d.290, effective July 21, 2003. 34 N.J.R. 2271(b), 35 N.J.R. 3368(b).

Chapter 1, Rules of Practice, was readopted as R.2008 d.79, effective March 3, 2008. As a part of R.2008 d.79, Subchapter 11, Public Utility Tariffs, was repealed, effective April 7, 2008. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

Clearing procedural hurdles at the BPU. R. William Potter, 150 N.J.L.J. 828 (1997).

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#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 14:1-1.1 Scope

These rules shall govern practice and procedure before the Board of Public Utilities.

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

##### 14:1-1.2 Construction and amendment

(a) These rules shall be liberally construed to permit the Board to effectively carry out its statutory functions and to secure just and expeditious determination of issues properly presented to the Board.

(b) In special cases and for good cause shown, the Board may, unless otherwise specifically stated, relax or permit deviations from these rules.

1. The Board shall, in accordance with the general purposes and intent of its rules, waive section(s) of its rules if full compliance with the rule(s) would adversely affect the

ratepayers of a utility or other regulated entity, the ability of said utility or other regulated entity to continue to render safe, adequate and proper service, or the interests of the general public;

2. Any person or entity seeking waiver of any of the Board's rules or parts thereof, shall apply in writing to the Secretary of the Board. A written request for waiver shall include the following:

- i. The specific rule(s) or part(s) thereof for which waiver is requested;
- ii. The reasons for the request of waiver, including a full statement setting forth the type and degree of hardship or inconvenience that would result if full compliance with the rule(s) would be required; and
- iii. Documentation to support the request for waiver.

3. The Board reserves the right to request additional information before reaching a determination regarding the application for waiver.

(c) The rules may be amended by the Board from time to time.

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

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

Added (b)1 through 3.

Amended by R.2005 d.424, effective December 5, 2005.

See: 37 N.J.R. 2837(a), 37 N.J.R. 4558(b).

In (b)1, added "or other regulated entity" following "utility" throughout.

#### Case Notes

Board of Public Utilities failed to adequately articulate basis for waiving bidding regulations. Petition of Hackensack Water Co. to Watershed Property Review Bd., 249 N.J.Super. 164, 592 A.2d 250 (A.D.1991), certification denied 127 N.J. 551, 606 A.2d 364, on remand.

##### 14:1-1.3 Definitions

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

"Board" means the Board of Public Utilities.

"Commissioner" means a member of the Board of Public Utilities.

"Person" means an individual, firm, joint venture, partnership, copartnership, corporation, association, State, county, municipality, public agency or authority, bi-state or interstate agency or authority, public utility, regulated entity, cable television company, cooperation association, joint stock association, trust, limited liability company, governmental entity, or other legal entity, and includes any trustee, receiver, assignee, or personal representative thereof. A person may or may not be a regulated entity.

"Presiding officer" means any member of the Board or a staff member who is designated as a hearing examiner in an uncontested case.

“Regulated entity” means a person or entity that is subject to the jurisdiction of the Board, or that provides a product or service subject to the jurisdiction of the Board. This term includes a utility, as defined in this section.

“Secretary” means the Secretary, Assistant Secretary or any other person duly authorized to act in such capacity by the Board.

“Utility” has the same meaning as defined in N.J.S.A. 48:2-13 and includes pipeline utilities as defined in N.J.S.A. 48:10-3, and municipally-operated utilities, insofar as the Board’s jurisdiction is extended to them under the appropriate statutes.

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

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

Amended “Board” and “Commissioner”.

Amended by R.2005 d.424, effective December 5, 2005.

See: 37 N.J.R. 2837(a), 37 N.J.R. 4558(b).

Added definitions “Regulated entity” and “Utility.”

Amended by R.2006 d.354, effective October 2, 2006.

See: 37 N.J.R. 3621(a), 38 N.J.R. 4236(c).

Added definition “Person”.

#### 14:1-1.4 Offices and hours

(a) The statutory office of the Board and the office of the Secretary of the Board are located at Two Gateway Center, Newark, New Jersey 07102.

(b) All offices of the Board are open on weekdays from 9:00 A.M. to 5:00 P.M., unless otherwise authorized by the Board.

(c) The offices are closed on State recognized legal holidays, Saturdays and Sundays.

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

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

Recodified in part from 14:1-1.5 and amended by R.2008 d.79, effective April 7, 2008.

See: 39 N.J.R. 4551(a), 40 N.J.R. 1917(a).

Section was “Offices”. Inserted designation (a).

#### 14:1-1.5 Requesting Board action on a complaint

(a) All formal petitions that seek to start a formal proceeding before the Board shall conform to N.J.A.C. 14:1-4 and 5.

(b) A formal complaint requesting a formal hearing shall consist of a petition to the Board that meets the applicable requirements of N.J.A.C. 14:1-4 and 5, accompanied by the appropriate fee in the amount and in the manner prescribed in N.J.A.C. 14:1-2.1 and 14:1-2.2.

(c) An informal complaint or filing, requesting Board action without a formal Board proceeding may be made by letter, telephone call, e-mail, fax or other writing, in accordance with N.J.A.C. 14:1-5.13.

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

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

In (b), inserted “State recognized”.

New Rule, R.2008 d.79, effective April 7, 2008.

See: 39 N.J.R. 4551(a), 40 N.J.R. 1917(a).

Former 14:1-1.5, Hours, recodified to 14:1-1.4.

#### 14:1-1.6 Communications

(a) All communications, including formal pleadings, correspondence and other papers, shall be addressed to the Secretary, Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102.

(b) All communications, except for comments on rule proposals, or other communications specifically exempted by rule, or by waiver, pursuant to N.J.A.C. 14:1-1.2(b), shall be deemed to be officially received when delivered at the office of the Board, but a Commissioner or the Secretary or an Assistant Secretary of the Board may in his or her discretion receive papers and correspondence for filing. Comments on rule proposals shall be deemed to be officially received in accordance with N.J.A.C. 14:1-1.6A.

(c) In a formal proceeding, a document submitted via fax or electronically will neither be date/time stamped as formally received by the Board nor be entered into the case or rulemaking record, except as provided under N.J.A.C. 14:1-1.6A. Such documents shall only be distributed to the addressee.

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), inserted “formal” preceding “pleadings”, substituted “shall be addressed” for “should be addressed”, and amended Board name and address; and added (c).

Amended by R.2006 d.354, effective October 2, 2006.

See: 37 N.J.R. 3621(a), 38 N.J.R. 4236(c).

In (a), inserted “communications, including”; and rewrote (b) and (c).

Amended by R.2008 d.79, effective April 7, 2008.

See: 39 N.J.R. 4551(a), 40 N.J.R. 1917(a).

In (c), substituted “In a formal proceeding,” for “If the Board receives” and “or electronically” for “, the document”, and inserted “submitted” and “, except as provided under N.J.A.C. 14:1-1.6A”.

#### 14:1-1.6A Submittal of comments on rule proposals, pilot study for electronic submittal

(a) This section governs submittal of comments on all rule proposals published by the Board in the New Jersey Register. This section also establishes an 18-month pilot study to test the efficacy of Board acceptance of rule proposal comments in electronic form.

(b) The pilot study authorized under this section shall begin upon the publication date of the first rule proposal published by the Board in the New Jersey Register after October 2, 2006. The pilot study shall continue until April 2, 2008.

(c) Comments on rule proposals shall be submitted by e-mail, hand delivery, or regular mail, on or before the date identified in the rule proposal published in the New Jersey Register. If no e-mail address for comments is provided in the proposal, the Board shall not accept or make part of the rule-making record a comment submitted by e-mail.

(d) Comments submitted by e-mail shall be sent to the e-mail address specified in the rule proposal. E-mail comments shall be submitted in Microsoft Word format, or in PDF format with searchable text and cut and paste capability.

(e) Rule proposal comments shall not be subject to the requirements for number of copies at N.J.A.C. 14:1-4.2. If rule proposal comments are submitted by hand delivery or regular mail, the Board requests, but does not require, that the commenter submit an original and five copies of the comments.

(f) The date upon which a comment on a rule proposal shall be deemed received shall be as follows:

1. The date upon which the Board receives the comment at the e-mail address set forth in the published proposal.

2. The date upon which the comment is hand delivered to Board offices, to a Commissioner, or to the Secretary; or

3. The date upon which a comment sent by regular mail to Board offices is postmarked, in accordance with N.J.A.C. 1:30-5.4(d).

(g) Within six months after the completion of the pilot study authorized by this section, the Board shall publish rule amendments. The rule amendments shall briefly summarize the results of the pilot study and shall continue, modify, or end the acceptance of rule proposal comments in electronic form.

New Rule, R.2006 d.354, effective October 2, 2006.  
See: 37 N.J.R. 3621(a), 38 N.J.R. 4236(c).

#### 14:1-1.7 Official records

(a) The Secretary shall have custody of the Board's seal and its official records, including the minutes of all action taken by the Board.

(b) Copies of rules and orders and decisions of the Board will be furnished by the Secretary upon payment of appropriate fees.

(c) Copies of official Board annual reports or other reports will be furnished by the Secretary or its designee upon payment of appropriate fees.

(d) The Board may supplement official reports and documents electronically as deemed appropriate by the Secretary of the Board.

Amended by R.2008 d.79, effective April 7, 2008.  
See: 39 N.J.R. 4551(a), 40 N.J.R. 1917(a).  
Added (c) and (d).

#### 14:1-1.8 Cameras and recording devices

(a) Proceedings before the Board shall be conducted with fitting dignity and decorum.

(b) The use of cameras and recording devices, including still cameras, movie cameras, television cameras, tape recorders and stenotype machines, hereinafter referred to as "equipment", in open meetings or other public proceedings conducted by the Board is permitted.

(c) Any accredited member of the news media desiring to use such equipment shall first contact the Board's Office of Communications to arrange for the set-up and removal of equipment so as not to interfere with the orderly conduct of the proceedings.

(d) No such equipment shall be placed on the counsel tables, witness stand or on the Board or presiding officer's bench, without the approval of the Board or presiding officer; equipment which would require the user to move about the room during the proceedings is prohibited. Moving about the meeting room in order to more advantageously use such equipment is prohibited, while the meeting is in session.

(e) Except for portable equipment which is used at an individual's seat in the audience, such equipment must be in place and ready for use prior to the start of the meeting or during a recess. A pre-arranged recess for the set-up or removal of such equipment may be arranged through the Office of Communications.

(f) The Board or presiding officer may, for good cause shown, suspend the operation of all or part of this rule with respect to a particular meeting.

(g) The Board or presiding officer may at any time limit or prohibit the use of any or all such equipment in meetings where in the opinion of the Board or presiding officer use of such equipment may obstruct the conduct of the meeting.

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

In (c) and (e), substituted "Office of Communications" for "Office of Public Information".

### SUBCHAPTER 2. FEES AND CHARGES

#### 14:1-2.1 Amount of fees and charges

The Board has been empowered, authorized and required by law to charge and collect fees and charges more particularly set forth in N.J.S.A. 48:2-56. Pursuant to N.J.S.A. 48:2-72, however, the collection of such fees and charges shall be inapplicable to public utilities subject to assessment as provided in Title 48 of the New Jersey Statutes Annotated.

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

#### 14:1-2.2 Payment of fees and charges

(a) No petition, report, notice, document, or other paper will be accepted for filing, and no request for copies of any