

**CHAPTER 24**  
**PUBLIC UTILITY REARRANGEMENT**  
**AGREEMENTS**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-44.5 and 52:14B-1 et seq.

**Source and Effective Date**

R.1995 d.15, effective December 8, 1994.  
See: 26 N.J.R. 4160(a), 27 N.J.R. 126(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 24, Public Utility Rearrangement Agreements, expires December 8, 1999.

**Chapter Historical Note**

Chapter 24, Public Utility Rearrangement Agreements, was originally adopted by the Commissioner of Transportation pursuant to N.J.S.A. 27:7-44.5 and was filed and became effective prior to September 1, 1969. Chapter 24 was amended and a new rule added by R.1990 d.52, effective February 5, 1990. See: 21 N.J.R. 3435(a), 22 N.J.R. 358(d).

Pursuant to Executive Order No. 66(1978), Chapter 24 was readopted as R.1995 d.15. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. AGREEMENTS AND ORDERS**

**16:24-1.1 Requirements**

Agreements and/or orders shall be executed for the Department only by the Commissioner or the Commissioner's designated representative after preliminary approval by the Director, Division of Roadway Design (Chief Engineer of Roadway Design).

Amended by R.1990 d.52, effective February 5, 1990.  
See: 21 N.J.R. 3435(a), 22 N.J.R. 358(d).

Technical changes reflecting departmental reorganization.

**16:24-1.2 Approval**

Schematic plans developed jointly by the Utility Company and the Department are reviewed by the Manager, Bureau of Utility and Railroad Engineering and the most feasible plans approved for more detailed engineering study and cost analysis. After final approval of a mutually acceptable scheme of rearrangement by the Manager, Bureau of Utility and Railroad Engineering, the company is requested to

prepare detailed plans and estimates. Utility work may be incorporated in the Department's construction contract in which case plans and specifications are jointly prepared for incorporation in the Department's construction contract plans.

**16:24-1.3 Execution and distribution**

(a) The Manager, Bureau of Utility and Railroad Engineering shall prepare an agreement or order covering the proposed work for execution by the utility, based on the detailed plans and estimates submitted by the utility. The agreement shall specify the following items:

1. Description of work to be performed and specifications pertaining thereto;
2. Regulations to be followed in performance of work and billing procedure where State and/or Federal reimbursement is allowed;
3. Responsibility for the cost of the work and the degree of any cost sharing;
4. The timing of work relative to coordination with the Department's construction contract;
5. Provisions for insurance coverage approved by the Manager, Bureau of Utility and Railroad Engineering;
6. Provisions for temporary Utility reroutes around construction areas if required;
7. Property rights required and procedure for acquisition;
8. Any other provisions required.

(b) The Manager, Bureau of Utility and Railroad Engineering shall forward two copies to the utility for execution, and as many copies as required for their files. Two copies shall be returned fully executed by the utility.

(c) Following execution of agreement or order by the utility, the Manager, Bureau of Utility and Railroad Engineering, shall forward the agreement or order to the Transportation Section of the Attorney General's office, for approval as to form and execution, after which it shall be initiated by the Manager, Bureau of Utility and Railroad Engineering and the Director, Division of Roadway Design (Chief Engineer of Roadway Design). The agreement shall then be recommended for approval and execution to the Commissioner on a Department action slip, which shall be prepared by the Bureau of Utility and Railroad Engineering.

(d) Upon favorable action or an agreement by the Commissioner, one fully executed copy shall be sent to the Director, Division of Auditing and Accounting and the other returned to the utility.

(e) If the agreement is in the form of an order, upon favorable action or an order by the Commissioner, two copies of the Public Utility Order shall be forwarded to the Board of Public Utility Commissioners for their approval before the Order can be considered effective. Upon approval by the Board of Public Utility Commissioners, one fully executed copy shall be sent to the Director, Division of Auditing and Accounting with the Board's approval certificate attached, and one fully executed copy with the Board's approval certificate attached shall be returned to the utility, and copies with photo reproduced signature sheets and facsimile board approval certificates distributed, as required, to all parties concerned.

Amended by R.1971 d.132, effective August 3, 1971.

See: 3 N.J.R. 114(a), 3 N.J.R. 183(a).

Amended by R.1973 d.37, effective January 26, 1973.

See: 5 N.J.R. 58(b).

Amended by R.1990 d.52, effective February 5, 1990.

See: 21 N.J.R. 3435(a), 22 N.J.R. 358(d).

Technical changes reflecting departmental reorganization.

#### 16:24-1.4 Railroad agreements

(a) When an existing or proposed grade crossing is involved, the Manager, Bureau of Utility and Railroad Engineering shall schedule a Diagnostic Team meeting to review and make recommendations to the Commissioner of Transportation concerning and describing the necessary protection at the grade crossing.

1. If all parties at interest are in agreement with the recommendations, the matter is referred to the Commissioner for issuance of an order.

2. If meritorious objections are received, the matter is referred to the Office of Administrative Law for adjudication pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, thence to the Commissioner of Transportation for issuance of an order.

3. Upon receipt of the Commissioner's order, the Manager, Bureau of Utility and Railroad Engineering, shall prepare a railroad agreement reflecting the information contained in the order.

4. The Manager, Bureau of Utility and Railroad Engineering, shall forward three copies of the agreement to the railroad for execution. Two copies shall be returned fully executed by the railroad.

5. Following execution of the agreement by the railroad, the Manager, Bureau of Utility and Railroad Engineering, shall forward the agreement to the Transportation Section of the Attorney General's office, for approval as to form and execution, after which it shall be initialed by the Manager, Bureau of Utility and Railroad Engineering, and the Director, Division of Roadway Design (Chief Engineer of Roadway Design). The agreement shall then be recommended for approval and execution to the Commissioner on a Department action slip, which shall be prepared by the Bureau of Utility and Railroad Engineering.

6. Upon favorable action on the agreement by the Commissioner, one fully executed copy shall be sent to the Director, Division of Auditing and Accounting, and the other returned to the railroad.

(b) For bridges or other non-grade crossing matters, schematic plans developed jointly by the railroad and the Department are reviewed by the Manager, Bureau of Utility and Railroad Engineering, and the most feasible plans approved for more detailed engineering study and cost analysis. After final approval of mutually acceptable scheme of rearrangement by the Manager, Bureau of Utility and Railroad Engineering, the railroad is requested to prepare detailed plans and estimates. Railroad work may be incorporated in the road contract in which case plans and specifications are jointly prepared for incorporation in the Department's construction contract plans.

1. The Manager, Bureau of Utility and Railroad Engineering, shall prepare an agreement covering the proposed work for execution by the railroad, based on the detailed plans and estimates submitted by the railroad. The agreement shall specify the following items:

i. Description of work to be performed and specifications pertaining thereto;

ii. Regulations to be followed in performance of work and billing procedure where State and/or Federal reimbursement is allowed;

iii. Responsibility for the cost of the work and the degree of any cost sharing;

iv. The timing of work relative to coordination with the roadway contract;

v. Provisions for insurance coverage approved by the Manager, Bureau of Utility and Railroad Engineering;

vi. Provisions for temporary railroad reroutes around construction areas if required;

vii. Property rights required and procedure for acquisition; and

viii. Any other provisions required.

2. After approval of the preliminary agreement, the Manager, Bureau of Utility and Railroad Engineering, shall forward three copies to the railroad for execution. Two copies shall be returned fully executed by the railroad.

3. Following execution of agreement by the railroad, the Manager, Bureau of Utility and Railroad Engineering, shall forward the agreement or order to the Transportation Section of the Attorney General's office, for approval as to form and execution, after which it shall be initialed by the Manager, Bureau of Utility and Railroad Engineering, and the Director, Division of Roadway Design (Chief Engineer of Roadway Design). The agreement shall then be recommended for approval and execution to the Commissioner on a Department action slip, which shall be prepared by the Bureau of Utility and Railroad Engineering.

4. Upon favorable action on the agreement by the Commissioner, one fully executed copy shall be sent to the Director, Division of Auditing and Accounting, and the other returned to the railroad.

R.1971 d.134, effective August 10, 1971.  
See: 3 N.J.R. 115(a), 3 N.J.R. 183(c).  
Repeal and New Rule: R.1990 d.52, effective February 5, 1990.  
See: 21 N.J.R. 3435(a), 22 N.J.R. 358(d).