

State of New Jersey  
Governor Philip D. Murphy  
Lt. Governor Sheila Y. Oliver



Joseph L. Fiordaliso  
President

Mary-Anna Holden  
Dianne Solomon  
Upendra Chivukula  
Bob Gordon  
Commissioners

Board of Public Utilities



[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

## NOTICE<sup>1</sup>

### IN THE MATTER OF THE RULEMAKING PROCEEDING REGARDING THE PROVISION OF NOTICE PRIOR TO INITIATING CERTAIN INFRASTRUCTURE PROJECTS PURSUANT TO P.L. 2021, C. 263

#### Docket No. AX22030133

Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the New Jersey Board of Public Utilities (NJBPUB or Board) hereby gives notice of a virtual Stakeholder Meeting to solicit input from the public and interested parties on the proposed adoption of an amendment and new rules at N.J.A.C. 14:3 which govern all utilities. The Board is considering a potential rule amendment and new rules at N.J.A.C. 14:3, a summary of which can be found attached to this Notice.

#### STAKEHOLDER MEETING

**DATE:** Tuesday May 10, 2022

**TIME:** 10:00 a.m.

**LOCATION:** Zoom Virtual Webinar

**REGISTER:** [https://us06web.zoom.us/webinar/register/WN\\_brZWvp7OTrCgZENVbWDFmA](https://us06web.zoom.us/webinar/register/WN_brZWvp7OTrCgZENVbWDFmA)

The deadline for comments on this matter is 5:00 p.m. ET on Thursday, June 9, 2022. Please submit comments directly to the specific docket linked above using the Board's [Public Document Search](#) tool and the "Post Comments" button. Comments are considered "public documents" for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. Written comments may also be submitted to:

Secretary of the Board  
New Jersey Board of Public Utilities  
44 South Clinton Ave., 1<sup>st</sup> Floor  
PO Box 350  
Trenton, NJ 08625-0350  
Phone: 609-292-1599  
Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

*Carmen D. Diaz*  
Carmen D. Diaz  
Acting Secretary of the Board

Dated: April 26, 2022

<sup>1</sup> Not a paid legal advertisement.

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

ALL UTILITIES

Proposed Amendment 14:3-1.1

Proposed New Rules N.J.A.C. 14:3-2.9 and 2.10

Authorized By: New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula, and Robert M. Gordon, Commissioners.

Authority: N.J.S.A. 48:3-17.11 through 17.14

Calendar Reference: See Summary below for an explanation of the exception to the calendar requirement.

BPU Docket Number: AX22030133

Proposal Number:

The deadline for comments on this matter is 5:00 p.m. on \_\_\_\_\_. Please submit comments directly by using the Board's [Public Document Search](#) tool, search for the specific docket listed above and post by utilizing the "Post Comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Secretary of the Board  
Board of Public Utilities  
44 South Clinton Ave., 1st Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Attn: BPU Docket Number: AX22030133

Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Phone: 609-292-1599

All comments are considered “public documents” for purposes of the State’s Open Public Records Act. Commenters may identify information that they seek to keep confidential by submitting it in accordance with the confidentiality procedures set forth in N.J.A.C. 14:1-12.3.

The agency proposal follows:

### **Summary**

The New Jersey Board of Public Utilities (Board) is proposing new rules at N.J.A.C. 14:3-2.9 and 2.10, which require public utilities, local utilities and local units, as defined in a proposed amendment to N.J.A.C. 14:3-1.1, to provide reciprocal notification prior to initiating public utility infrastructure projects and local utility infrastructure projects pursuant to the provisions of P.L. 2021, c. 263 (N.J.S.A. 48:3-17.11 *et seq.*). The law directs the Board to adopt such rules and regulations in consultation with the New Jersey Department of Community Affairs. The notification shall include a summary of the purpose and scope of the infrastructure project, a project schedule, and a map of the project location. The local unit, local utility, and public utility shall coordinate with each other to provide timely notification of any changes to their respective project plans or schedule and when feasible, to jointly establish a timeframe for scheduled work. The law, which took effect immediately upon enactment on November 8, 2021 and remained inoperative for 180 days following the date of enactment, becomes operative May 7, 2022.

## Subchapter 1. Definitions and General Provisions

N.J.A.C. 14:3-1.1 contains definitions of general applicability. Definitions for "Emergency," "Local infrastructure project," "Local unit," "Local utility," and "Public utility infrastructure project" have been added.

## Subchapter 2. Plant

N.J.A.C. 14:3-2.9 proposes that a public utility notify a local unit and local utility of any public utility infrastructure project that the public utility plans to undertake within the borders of that local unit and local utility service area.

N.J.A.C. 14:3-2.10 proposes that a local unit and local utility shall notify each public utility that provides service within the borders of a local unit and local utility service area of any local infrastructure project that the local unit or local utility plans to undertake.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

## **Social Impact**

The amendment and new rules will have a beneficial social impact because they will improve basic requirements that ensure that New Jersey utility consumers receive safe, adequate, and proper service at reasonable rates. The primary purpose of the amendment and new rules are to ensure that public utilities, local utilities and local units give adequate notification to each other in advance of infrastructure projects and when feasible jointly establish a timeframe for coordinating scheduled work. [The benefits of enhanced coordination may include less disruption to roads and](#)

infrastructure, and faster recovery from excavation and other work necessary for public utilities to provide safe, adequate and proper service.

### **Economic Impact**

The amendment and new rules are not likely to have a significant economic impact, in that they ensure that public utilities provide safe, adequate and proper service at a reasonable rate by coordinating infrastructure project activities among public utilities, local units and local utilities. Any public utility costs incurred in complying with the amendment and new rules, if determined to be reasonable, are recognized by the Board for ratemaking treatment and the public utility will therefore recoup these costs through customer charges. The Board believes that the obligations imposed by the amendment and new rules are reasonable and will ensure that public utilities continue to provide safe, adequate and proper service. While the Board may incur some costs in monitoring compliance with the rule, the rule will have no adverse economic impact on the Board.

### **Federal Standards Analysis**

N.J.S.A. 52:14B-1 *et seq.* requires state agencies that adopt, readopt or amend state rules that exceed any federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The amendment and new rules are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under federal law or under a state statute that incorporates or refers to federal law, federal standards, or federal requirements. Accordingly, the amendment and new rule do not exceed the standards or requirements imposed by federal law and are not promulgated to comply with a federal requirement.

### **Jobs Impact**

The Board anticipates that the amendment and new rules will not result directly in the creation of new jobs or the loss of existing jobs; however, the continued effective and efficient operation of utilities in New Jersey supports thousands of direct, local, in-state jobs. The income that individuals and families earn from these in-state New Jersey jobs contributes significantly to the New Jersey economy. The proposed amendment and new rules are not expected to have any impact on the number of jobs currently supported by New Jersey utilities. The amendment and new rules will not have an impact on any other sector of the economy of the State of New Jersey.

### **Agriculture Industry Impact**

The amendment and new rules will have no impact on the agricultural industry.

### **Regulatory Flexibility Statement**

There are no small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 *et seq.*, to which the amendment and new rules would apply. Additionally, the amendment and new rules do not impose any additional reporting, recordkeeping, or other compliance requirements on small businesses. The proposed amendment and new rules apply to public utilities, local utilities and local units.

### **Housing Affordability Impact Analysis**

The amendment and new rules will not have an impact on affordable housing in New Jersey. The amendment and new rules will not evoke a change in the average costs associated with housing since the scope of the rules are limited to a notification requirement imposed on public utilities, local utilities and local units.

### **Smart Growth Development Impact Analysis**

The amendment and new rules will not have an impact on achieving the goal of smart growth and the implementation of the State Development and Redevelopment Plan in New Jersey. Since the amendment and new rules are limited in scope and only require that prior reciprocal notification be given before commencing infrastructure project activities, there is an extreme unlikelihood that the proposed rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement**

The amendment and new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in New Jersey. Accordingly, no further analysis is required.

**Full text** of the amendment and new rules follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## Chapter 3 - ALL UTILITIES

### Subchapter 1 - GENERAL PROVISIONS

#### 14:3-1.1 – Definitions

The following words and terms, when used in N.J.A.C. 14:3 through 14:10 and 14:29, shall have the following meanings, unless the context clearly indicates otherwise:

...

**"Emergency" means any circumstance when local utility or public utility service is interrupted or in immediate danger of being interrupted by natural causes or by any other cause or when the condition of the equipment of the local utility or public utility is in need of immediate repair to prevent injury to persons or damage to property.**

...

**"Local infrastructure project" means a project performed by a local unit or a local utility to improve a public road, street, or bridge under the jurisdiction of a local unit or local utility facilities or any work conducted in a public utility right-of-way.**

**"Local unit" means a county or municipality. .**

**"Local utility" means a sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (N.J.S.A. 40:14A-1 et seq.), a utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (N.J.S.A. 40:14B-1 et seq.), an entity created pursuant to the "Municipal Shared Services Energy Authority Act," P.L.2015, c.129 (N.J.S.A. 40A:66-1 et al.), or a utility of a local unit, authority, commission, special district, or other corporate entity not regulated by the Board of Public Utilities under Title 48 of the Revised Statutes that provides gas, electricity, heat, power,**

**water, or sewer service to a municipality or the residents thereof.**

...

**"Public utility infrastructure project" means the construction, reconstruction, installation, demolition, restoration, or alteration of facilities under ownership or control of the public utility that requires approval by the board, but shall not include traffic control, leak surveying, snow plowing, vegetation management in or around public utility rights-of-way, mark outs, landscaping, meter work, equipment repairs , or other work occurring during an emergency.**

...

## Subchapter 2 – PLANT

### 14:3-2.1 - Plant construction

(No change.)

### 14:3-2.2 - Inspection of work performed by contractors

(No change).

### 14:3-2.3 - Equipment on utility poles

(No change)

### 14:3-2.4 - Identification of buildings and structures

(No change.)

### 14:3-2.5 - Identification of utility equipment

(No change.)

14:3-2.6 - Maintenance of plant, equipment and facilities

(No change.)

14:3-2.7 - Inspection of property

(No change.)

14:3-2.8 - Construction work near utility facilities

(No change.)

**14:3-2.9 – Public utility notification of a planned infrastructure project**

**(a) A public utility shall notify a local unit and local utility of any public utility infrastructure project that the public utility plans to undertake within the borders of that local unit and local utility service area at least 180 days prior to initiating work on the public utility infrastructure project. The notice shall include a summary of the purpose and scope of the public utility infrastructure project, a public utility infrastructure project schedule, and a map of the public utility infrastructure project location.**

**(b) Within 60 days of the receipt of the notice required pursuant to 14:3-2.9(a), a local unit and local utility shall examine any underground utility facility owned or operated by the local unit or local utility to the extent feasible and notify the public utility whether such underground utility facility needs repair or replacement and if the local unit or local utility intends to undertake a local infrastructure project within the scope of the public utility infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective project plans or schedule and,**

when feasible, to jointly establish a timeframe for scheduled work.

#### **14:3-2.10 - Local unit and local utility notification of an infrastructure project**

**(a) A local unit and local utility shall notify each public utility that provides service within the borders of a local unit and local utility service area of any local infrastructure project that the local unit or local utility plans to undertake at least 180 days prior to initiating work on the local infrastructure project. The notice shall include a summary of the purpose and scope of the local infrastructure project, a local infrastructure project schedule, and a map of the local infrastructure project location.**

**(b) Within 60 days of the receipt of the notice required pursuant to 14:3-2.10 (a), a public utility shall examine any underground utility facility owned or operated by the public utility within the borders of a local unit to the extent feasible and notify the local unit and any relevant local utility whether an underground utility facility needs repair or replacement and if the public utility intends to construct a public utility infrastructure project within the scope of the local infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work.**