

New Jersey Register a notice describing the Board's action on the petition in accordance with (h) below.

(h) In accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2(a), the Board shall take one of the following actions on the petition:

1. Deny the petition, in which case the notice of action shall explain the reasons for the denial;

2. Grant the petition and initiate rulemaking within 90 days of granting the petition; or

3. Refer the matter for further deliberations. The Board shall conclude its further deliberations within 90 days of the referral. Upon conclusion of such further deliberations, the Board shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate rulemaking within 90 days of granting the petition. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

(i) In accordance with N.J.A.C. 1:30-4.2(b), a specific period of more than 90 days for further deliberations under (h)3 above and/or to initiate a rulemaking proceeding under (h)2 or 3 above may be agreed upon, in writing, by the petitioner and the Board. An agreement to extend either period or both periods shall constitute an action on the petition for which notice shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

SUBCHAPTER 7. CONFERENCES AND SETTLEMENTS

14:1-7.5 Approval of settlements

A settlement includes any agreement between the parties that resolves disputed matters and may end all or part of the case. No settlement shall be deemed approved by the Board unless acted on in accordance with N.J.S.A. 48:2-40.

SUBCHAPTER 8. CONTESTED CASE HEARINGS

14:1-8.1 Contested case procedures

(a) Staff shall make the initial determination of whether a matter is a contested case. That determination is subject to review by the Board.

(b) The hearing in any matter which is determined by the Board to be a contested case shall be conducted pursuant to the procedures in the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1, and the Board of Public Utilities Rules of Special Applicability, N.J.A.C. 1:14.

14:1-8.5 Motions to reopen

(a) After [issuance] the effective date of the final decision, a party may file for the reopening of the proceeding. Upon filing by any party of a motion for the reopening of a proceeding, appropriate notice thereof shall be given forthwith by the moving party to all other parties, or their attorneys of record, by service of a copy of the motion for reopening.

(b)-(c) (No change.)

14:1-8.6 Rehearing, reargument, or reconsideration

(a) A motion for rehearing, reargument, or reconsideration of a proceeding may be filed by any party within 15 days after the [issuance] effective date of any final decision or order by the Board.

1.-2. (No change.)

(b) (No change.)

SUBCHAPTER 9. UNCONTESTED CASE PROCEEDINGS

14:1-9.1 Uncontested case proceedings

This subchapter applies only to a matter [which the Board determines] that is determined to constitute an uncontested case. Where the Board determines to hold a hearing in an uncontested case, said hearing shall be conducted pursuant to this section and, in the absence of a specific provision herein, pursuant to the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the Board of Public Utilities Rules of Special Applicability, N.J.A.C. 1:14.

SUBCHAPTER 10. COMPLIANCE WITH ORDERS, DECISIONS, AND RECOMMENDATIONS

14:1-10.1 Orders and decisions

Upon [issuance] the effective date of an order or decision of the Board, the party to whom the same is directed must notify the Board on or before the date specified in said order or decision, whether or not compliance has been made in conformity therewith.

14:1-10.4 Answers to communications

Unless otherwise specified, any letter or [telegram] notice from the Board directing investigation of any matter under its jurisdiction must be complied with by the utility and a report received by the Board within 15 days from the date of the letter or [telegram] notice. If circumstances prevent compliance with this [rule] section, the utility must advise the Board, in writing within the above prescribed period, of its inability to comply and the reasons therefor.

(a)

BOARD OF PUBLIC UTILITIES

Electric Service

Proposed Readoption with Amendments: N.J.A.C. 14:5

Proposed New Rules: N.J.A.C. 14:5-8.7, 9.5, and 9.8

Proposed Repeal: N.J.A.C. 14:5-9.2

Authorized By: Board of Public Utilities, Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, and Dianne Solomon, Commissioners.

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-16, 48:2-25, and 48:3-96.

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

BPU Docket Number: EX15010033.

Proposal Number: PRN 2015-029.

Comments may be submitted through May 15, 2015, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us or on paper to:

Kenneth Sheehan, Secretary
NJ Board of Public Utilities
Attn: Docket No. EX15010033
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The Board is proposing to readopt with amendments, new rules, and a repeal the provisions of N.J.A.C. 14:5, Electric Service, which are scheduled to expire on August 13, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Electric Service rules delineate the requirements that electric distribution companies (EDCs) subject to the jurisdiction of the Board of Public Utilities (Board) must abide by in such areas as the construction, inspection, and maintenance of a utility plant, the testing and accuracy of electric meters, residential underground extensions, vegetation management and the maintenance and preservation of records and accounts. These rules are necessary in that they relate directly to the provision of safe, adequate, and proper service by regulated New Jersey electric distribution companies. 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.

The substantive provisions of the chapter proposed for re adoption with amendments, new rules, and a repeal by the Board are summarized as follows:

N.J.A.C. 14:5-1.1 delineates the scope and applicability of Chapter 5 and is proposed for re adoption without amendment. Specifically, this section states that all EDCs are required to comply with the provisions

contained in Chapter 5 and the provisions of the Board's rules for all utilities contained in Chapter 3.

N.J.A.C. 14:5-1.2 includes a list of definitions for terms that are used throughout Chapter 5. The section is proposed for amendment to add the following newly defined terms: "ANSI," "danger tree," "electric overhead transmission corridor," "hazard tree," "lock out zone," and "mitigate." The following definitions are proposed for amendment: unscheduled interruption, Annual System Performance Report, major event, and minimum reliability level. The definition for "unscheduled interruption" is proposed to be changed to "interruption, unscheduled," without any substantive change, while the definitions for "Annual System Performance Report," "major event," and "minimum reliability level" are proposed for amendment to update cross-references, based on recodifications proposed in this rulemaking. The definition of "IEEE" is proposed for amendment to update the website and the definition of "benchmark" is proposed for deletion in its entirety. The definitions from N.J.A.C. 14:5-9.2 are proposed for relocation to N.J.A.C. 14:5-1.2. Definitions relocated with only technical/grammatical changes are: "arboricultural," "agricultural crop," "border zone," "energized conductor," "grass," "inactive transmission line corridor," "Integrated Vegetation Management," "vegetation manager," "NERC," "tree," "vegetation," "vegetation management," "vegetation manager," "wire zone," and "woody plant." Definitions relocated with substantive amendments include: "contractor," "distribution line," "electric utility arborist," "right of way," and "transmission line." The definition of "contractor" is proposed for amendment to fix a grammatical error. The definition for "distribution line" is proposed for amendment to add "operating at greater than 600 volts" after cable and delete "which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises." The definition of "electric utility arborist" is proposed for amendment to remove the requirement that the person is certified as a Tree Expert by the New Jersey Department of Environmental Protection's Board of Tree Experts. Additional language was also added to clarify that the person must possess appropriate certifications, experience, education, and related training, and the competence to provide for or supervise, an EDCs integrated vegetation management program. The definition of "right of way" is proposed for amendment to add "or ROW" to the definition, so that the acronym may be used instead of the full term. The definition of "transmission line" is proposed for amendment to replace "electric distribution lines" with "electric substations or switching stations." The definition of "major event" was not relocated, as it is already defined in this section.

N.J.A.C. 14:5-2.1 pertains to the applicable standards for plant construction. This section is proposed for amendment to update the Code reference for the National Electrical Safety Code to the 2012 version, which was already effective and incorporated by reference pursuant to subsection (b). The 2012 National Electric Safety Code offers guidance to safeguard people when electrical supply and communication lines are designed, installed, operated and maintained.

N.J.A.C. 14:5-2.2 pertains to the separation and protection of communication and supply conductors or cables that are buried in the earth and is proposed for readoption without amendment. Subsection (a) delineates the requirement that buried communication and supply conductors be separated by specified distances, depending on the type of material used to separate the buried cables. Subsection (b) provides four exceptions to the main requirement contained in subsection (a).

N.J.A.C. 14:5-2.3 pertains to the protection of buried supply conductors and cables at all crossings and is proposed for readoption without amendment.

N.J.A.C. 14:5-2.4 pertains to the protection of communication and supply conductors or cables that are installed in the same trench generally parallel to each other and is proposed for readoption without amendment.

N.J.A.C. 14:5-2.5 requires fault protection for cables where buried communication and power supply conductors of 550 volts or more between conductors are installed in the same trench without separation and is proposed for readoption without amendment.

N.J.A.C. 14:5-2.6 requires each EDC to properly identify its underground cables and is proposed for readoption without amendment.

N.J.A.C. 14:5-2.7 requires specific ground protection where communication and power supply conductors are buried in the same trench without separation and is proposed for readoption without amendment.

N.J.A.C. 14:5-2.8 pertains to the required depths for communication and power supply cables of over 550 volts between conductors that are buried in the same trench without separation or mechanical protection and is proposed for readoption without amendment. This section also specifies the depth that the cables should be buried.

N.J.A.C. 14:5-2.9 requires electric utilities to inspect and maintain street lighting lamps and accessories pursuant to established practice and to perform safety and service inspections before reinstalling equipment in its system and is proposed for readoption without amendment.

N.J.A.C. 14:5-3.1 pertains to the supply of polyphase service and defines that term and is proposed for readoption without amendment.

N.J.A.C. 14:5-3.2 pertains to the adequacy of service provided by EDCs. This section sets out the requirements for the standard average value of voltage for EDCs supplying electric energy on a constant potential system and requires EDCs supplying alternating current to adopt and maintain a suitable standard frequency. Amendments are proposed to indicate that the tolerance for voltage variability in the EDCs' supply of electric service per location, be increased to the national standard of plus or minus five percent consistent with ANSI C84.1, rather than four percent. Expansion of the tolerance limits on voltage variation are anticipated to benefit customers on distribution circuits by enabling the EDCs to more easily accommodate distributed generation and reduce wear and tear on distribution system protective equipment.

N.J.A.C. 14:5-3.3 sets out the conditions under which main service cabinets or cabinets enclosing main fuses or breakers may be sealed and is proposed for readoption without amendment.

N.J.A.C. 14:5-3.4 requires the grounding of secondaries to be in accordance with the National Electrical Safety Code and is proposed for readoption without amendment.

N.J.A.C. 14:5-3.5 sets out those instances in which an electric utility may refuse to connect with a customer's installation and is proposed for readoption without amendment.

N.J.A.C. 14:5-3.6 requires EDCs to report accidents in accordance with the requirements of N.J.A.C. 14:3-6.4 and is proposed for readoption without amendment.

N.J.A.C. 14:5-4.1 describes the equipment to be maintained by EDCs for the testing of electric meters and to the inspection of such equipment and is proposed for readoption without amendment. Specifically, subsection (a) requires the EDC to have a testing lab and the equipment necessary to test the accuracy of the meters. Subsection (b) requires the EDCs to have portable meter testing devices. Subsection (c) requires the EDCs to have the proper equipment to test the accuracy of portable watt-hour meters, while subsection (d) requires watt-hour meters to be certified. Subsection (e) requires all portable meters to be checked against reference standards at least once a week, while subsection (f) allows the instruments and standards mentioned in this section to be certified by a standardizing laboratory that has been approved by the Board.

N.J.A.C. 14:5-4.2 requires the periodic testing of electric meters according to the schedule contained in subsection (a). Subsection (b) identifies how the kilowatt rating of a direct current meter may be determined. Subsection (c) states how all alternating current watt-hour meters installed on customers premises shall be tested. The section is proposed for readoption without amendment.

N.J.A.C. 14:5-4.3 pertains to the accuracy of electric meters and is proposed for readoption without amendment. Subsection (a) states the percentage of error registration that is acceptable in a meter. Subsection (b) prohibits a meter, which registers "no load" from being put into service. Subsection (c) stipulates how the accuracy of a meter shall be determined during periodic testing. Subsection (d) identifies what "light load" is. Finally, subsection (e) identifies how accuracy shall be determined for complaint testing.

N.J.A.C. 14:5-4.4 requires that all electric meters installed outdoors must be compensated for temperature variations and is proposed for readoption without amendment.

N.J.A.C. 14:5-4.5 pertains to the adjustment of electric meters after testing and the testing for accuracy prior to installation and is proposed for readoption without amendment.

N.J.A.C. 14:5-5.1 pertains to the governance of extensions of electric service and is proposed for readoption without amendment. Specifically, they are governed by the provisions set forth in N.J.A.C. 14:3-8.

N.J.A.C. 14:5-6.1 adopts by references the Uniform System of Accounts (USOA) for Class A and B Electric Utilities promulgated by the Federal Energy Regulatory Commission and is proposed for readoption without amendment. The purpose of the USOA is to require the affected electric utilities to adopt a uniform system of accounting by which to keep their books, records, and accounts in a manner that will afford an intelligent understanding of the conduct of their business. The USOA creates a series of accounts and a related numbering system by which to record various financial transactions pertaining to operating expense accounts, utility plant accounts, balance sheet accounts, income accounts, operating revenue accounts, and operation and maintenance expense accounts.

N.J.A.C. 14:5-6.2 adopts by reference regulations proposed for adoption by the states by the National Association of Regulatory Utility Commissioners governing the preservation of records by electric utilities and is proposed for readoption without amendment. These regulations place particular types of records into certain categories and establish period of times during which such records should be maintained. The categories established by the regulations include corporate records, automatic data processing records, general accounting records, insurance records, operation and maintenance records, personnel records, plant and depreciation records, purchase and store records, revenue accounting and collecting records, tax records, and treasury records.

N.J.A.C. 14:5-7.1 establishes guidelines to which EDCs must adhere in constructing overhead transmission lines. Subsection (b) is proposed for amendment to update the cross-reference from N.J.A.C. 14:5-8 to 14:5-9.

N.J.A.C. 14:5-8.1 sets forth the purpose and scope of Subchapter 8 as it pertains to measuring reliability and ensuring the quality of the electric service being delivered to New Jersey customers by electric distribution companies. The word “quarterly” is proposed to be added in subsection (b) after annual to state that reports will be required quarterly by proposed new N.J.A.C. 14:5-8.7 (as discussed below). Additionally, “these rules” is proposed to be replaced with “this subchapter.”

N.J.A.C. 14:5-8.2 pertains to reliability performance levels and is proposed for readoption without amendment. Specifically, it requires the EDCs to perform better than the minimum reliability levels in N.J.A.C. 14:5-8.5 and that failure to maintain these levels may result in penalty.

N.J.A.C. 14:5-8.3 pertains to service reliability programs and procedures. This section requires EDCs to ensure that they maintain minimum reliability levels for their respective operating areas. The term “unduly” is proposed to be deleted from the first sentence of subsection (c).

N.J.A.C. 14:5-8.4 requires EDCs to consider power quality in the design and maintenance of their distribution power-delivery system components and to maintain power quality programs designed to promptly respond to customer reports of power quality problems and is proposed for readoption without amendment.

N.J.A.C. 14:5-8.5 pertains to individual circuit reliability performance. Subsection (a) requires EDCs to identify the reliability of their circuits on a predefined basis, while subsection (b) requires EDCs to improve the reliability of their poorest performing circuits. Subsection (c) requires EDCs to review their previous two reports in order to address the reliability performance for their operating areas. Subsection (d) requires EDCs to examine the equipment and circuits for operating areas that have values higher than the minimum performance level of CAIDI and SAIFI in two of the past three reports. Finally, the worst performing circuits and equipment serving those circuits shall be identified and corrected. The cross-reference to N.J.A.C. 14:5-8.7 in subsections (c) and (d) is proposed for amendment to N.J.A.C. 14:5-8.8 due to proposed new N.J.A.C. 14:5-8.7.

N.J.A.C. 14:5-8.6 requires each EDC to have inspection and maintenance programs for all their distribution facilities. Subsection (a) requires that a significant portion of the inspection programs should be

focused on mitigating the causes of service interruption. Subsection (b) details plans for inspections, maintenance, and recordkeeping. In addition, subsection (c) requires all EDCs to maintain records of inspection and maintenance activities. The reference in subsection (b) is proposed for amendment from N.J.A.C. 14:5-8.7(c)9 to 8.8(c)9 due to proposed new N.J.A.C. 14:5-8.7. Further, proposed new subsection (d) is added to require each EDC to track and report “hazard trees.” This subsection will require each EDC to identify and record hazard trees, track hazard trees both within and outside of the existing easement or ROW that cannot be mitigated, and report this information in the Annual System Performance Report.

Proposed new N.J.A.C. 14:5-8.7 will require the EDCs to submit quarterly reports. Proposed subsection (a) will require the EDC’s to track and report outage data, excluding IEEE 1366 momentary outages and major events, that includes: Outage type (primary, secondary or service line, specific equipment), circuit ID and type, source substation, number of customers on the circuit, municipality outage occurred, number of customers affected by this outage, start date/time of outage, total duration of outage in minutes, and the cause of outage (for example, vegetation, equipment failure, outside influence). It also specifies each EDC may use its own method for identifying the type of outage, that an explanatory summary of unique circumstances or potential problems identified and glossary of terms be provided, and that all outage data must be submitted in a Microsoft Office excel spreadsheet file with the explanatory summary in another Microsoft Office or Adobe Acrobat compatible format. Proposed subsection (b) requires the EDC’s to submit an additional Microsoft Office Excel spreadsheet detailing outages at the substation level. This information will include the substation ID, number of outages experienced at each substation due to substation specific equipment, duration of outages, number of customers affected by each outage, and require an explanatory summary of any unique circumstances or potential problems identified. Proposed subsection (c) requires the quarterly reports be submitted in an electronic form, both in redacted and unredacted forms, in order to protect security sensitive information.

Due to proposed new N.J.A.C. 14:5-8.7, existing N.J.A.C. 14:5-8.7 through 8.12 are proposed for recodification as N.J.A.C. 14:5-8.8 through 8.13, respectively, and are discussed below based on that recodification.

Recodified N.J.A.C. 14:5-8.8 provides for the submission by EDCs of an Annual System Performance Report, by May 31st of each year and sets out the components of such report. In addition, subsection (b) requires EDCs to include their electric service reliability performance operating areas in relation to their SAIFI and CAIDI levels, with a summary value for each EDCs service territory as a whole in relation to their minimum service reliability levels for those metrics. In addition, the annual report must reflect for the previous calendar year and previous 10 years. Further, subsection (c) contains a list of the items that should be included in the EDCs annual report, including new requirements for information on each EDC’s stray voltage program and planned vegetation management activities. Subsection (c) is proposed for amendment to include a new requirement, hazard tree information as required in N.J.A.C. 14:5-8.6(d)3. Furthermore, subsection (g) is proposed for amendment to require that eight percent of its worst-performing circuits are identified in each of its operating areas. Previously, only the greater of four percent or a quantity of five circuits were required. Further proposed amendments state that the EDCs are required to list the circuits that were addressed and the work completed to address them during the applicable performance year and identified at the end of the applicable performance year to be addressed in the next performance year and report this in the Annual System Performance Report. Additional proposed amendments state that the EDC must implement mitigation for these circuits no longer than one year from submission of the Annual System Performance Report and that, if the EDC contends the mitigation work cannot be completed within that timeframe, the EDC must provide a detailed explanation to the Board of the reasons.

Recodified N.J.A.C. 14:5-8.9 requires that electric utilities submit a report within 15 days of a “major event,” and includes a list of the items that should be included in that report.

Recodified N.J.A.C. 14:5-8.10 sets forth the criteria for the establishment of service level values for each EDC’s CAIDI and SAIFI levels; requires a review, analysis, and corrective action if the minimum

reliability level is not met; and states that the Board may adjust this minimum reliability level after considering various factors. Subsection (a) is proposed for amendment to remove the benchmark standard of a five-year average for the years 2002-2006, plus one and a half standard deviations, and to set forth each EDC's CAIDI and SAIFI levels.

Recodified N.J.A.C. 14:5-8.11 sets forth standards for the prompt restoration of service by EDCs. Subsection (a) requires EDCs to begin to restore service to an affected area within two hours of notification by two customers or more. Further, subsection (a) requires EDCs to begin the prompt restoration of service if they are made aware of an outage by their "operating management system." This is proposed to be amended to "outage management system" to correct the typographical error. Subsection (b) limits this section to disruptions of service that are not caused by a major event. Subsection (c) states that EDCs shall place the highest priority on responding to emergency situations. Finally, subsection (d) states that when the EDC is unable to respond within the two hours required by subsection (a), they shall respond as soon as possible.

Recodified N.J.A.C. 14:5-8.12 pertains to the outage management systems to be implemented by each electric utility.

Recodified N.J.A.C. 14:5-8.13, sets forth the penalties for violations of the reporting and plan and program submission requirements and for other violations of the subchapter. Subsection (a) is proposed to be amended to correct cross-references that changed based on proposed new N.J.A.C. 14:5-8.7.

N.J.A.C. 14:5-9.1 pertains to the purpose and scope of the vegetation management standards contained in Subchapter 9. This section is proposed for amendment to include "using integrated vegetation management and sound arboricultural practices" to the end of the sentence.

N.J.A.C. 14:5-9.2, Definitions, is proposed for repeal as the definitions are proposed for relocation to N.J.A.C. 14:5-1.2, as discussed above.

N.J.A.C. 14:5-9.3 pertains to the general requirements that EDCs must abide by in the performance of vegetation management activities. Subsection (d) is proposed for amendment to delete the reference to the definitions, as this type of reference is not appropriate in the Administrative Code. Subsection (f) is proposed to be replaced to state that the vegetation manager (VM) has sole discretion to perform additional vegetation management work requested to meet the aesthetic desires of a municipality, provided that the work will not (1) impair the EDC's ability to meet reliability and safety objectives of this subchapter; (2) negatively impact the EDC's schedule of vegetation management work; and (3) require incremental costs. Subsection (f) further states that the EDC may charge the requesting party for additional vegetation management work, other than the vegetation management work required under this subchapter, and that this shall not apply to transmission line vegetation management work required under N.J.A.C. 14:5-9.7. Paragraph (g)4 is proposed for amendment to replace "electric public utility" with "EDC" and to change "for these costs" to "for additional costs." Further, the phrase "to achieve full compliance by December 18, 2010" is proposed to be removed from subsection (i).

N.J.A.C. 14:5-9.4 pertains to the requirements placed upon EDCs for a vegetation management maintenance cycle. Subsection (c) is proposed for amendment to include the presence of hazard trees. Furthermore, cross-references are updated throughout the section.

Proposed new N.J.A.C. 14:5-9.5 pertains to hazard trees. Specifically, this section requires that the EDC must attempt to obtain permission to remove or mitigate identified hazard trees, that if permission is not necessary the EDC shall arrange to remove or mitigate the hazard tree as part of scheduled vegetation management work to be performed during the current year, unless the VM determines that the condition of the hazard tree poses an imminent risk of failure, in which case, the EDC shall remove or mitigate the hazard tree as soon as practicable and that the EDC is required to comply with recording and reporting requirements of N.J.A.C. 14:5-9.9(d)2.

Due to proposed new N.J.A.C. 14:5-9.5, existing N.J.A.C. 14:5-9.5 and 9.6 are recodified as N.J.A.C. 14:5-9.6 and 9.7, respectively, and are discussed below based on that recodification.

Recodified N.J.A.C. 14:5-9.6 pertains to the technical standards of vegetation management, which requires that the EDCs ensure that

vegetation management is conducted in accordance with the standards contained in the publications list contained at subsection (a). Subsection (a) is proposed for amendment to remove the reference to the Dr. Shigo publication in paragraph (a)1 and Environmental Stewardship Strategy for Electric Utility Rights of Way (2002) in paragraph (a)4. New references include Part 7 and Part 9 of ANSI A300, proposed for addition as new paragraphs (a)2 and 3, respectively. ANSI A300 Part 7 applies to the creation and implementation of an Integrated Vegetation Management plan as a system of managing plant communities in which managers set objectives; identify compatible and incompatible vegetation; consider action thresholds; and evaluate, select, and implement the most appropriate control method or methods to achieve those objectives. ANSI A300 Part 9 defines the Tree Risk Assessment process and addresses tree structure assessment practices. Further amendments include updating the references to the ANSI publications and updating where the publications can be found. Subsection (b) is proposed for amendment to state that the VM or his or her designee can select a standard "or method" based upon the specific circumstances encountered, when the standards or methods listed in subsection (a) conflict. Subsection (c) is proposed for amendment to replace "a utility" with "an EDC" and new paragraph (c)4 is proposed to state that the presence and condition hazard trees in the prioritization of vegetation management standards and guidelines. Subsection (e) is proposed for amendment to include procedures for handling the removal of hazard trees in the EDC's vegetation management standards and guidelines.

Recodified N.J.A.C. 14:5-9.7 pertains to the requirements on EDCs for transmission line vegetation management. Subsection (b) is proposed for amendment to update the reference of NERC FAC-003 to version three, as being applicable and incorporates it herein by reference, as amended and supplemented, available at www.nerc.com. Paragraph (e)2 is proposed for amendment to remove the phrase "not exceeding a height of 18 inches." Paragraph (f)3 is proposed for amendment to delete the phrase "and at mature height will allow a space of more than 150 percent of the clearance requirements for an electrical path to ground set forth in the National Electric Safety Code, § 232 to § 235," changing the condition to only require "trees located within an inactive transmission corridor."

Proposed new N.J.A.C. 14:5-9.8 pertains to distribution line vegetation management. This section requires all EDCs to inspect and trim in order to maintain the appropriate horizontal clearance on their distribution lines. Furthermore, beginning January 1, 2016, all EDCs will be mandated to remove any overhanging vegetation in the lock out zone (meaning from the substation to the first protective device) on the distribution lines. The EDC's vegetation managers will have flexibility in determining what the lock out zone is and mature trees are exempt from the overhang mandate.

Due to proposed new N.J.A.C. 14:5-9.8, existing N.J.A.C. 14:5-9.7, 9.8, 9.9, and 9.10 are recodified as N.J.A.C. 14:5-9.9, 9.10, 9.11, and 9.12, and are discussed below based on that recodification.

Recodified N.J.A.C. 14:5-9.9 pertains to the training, recordkeeping, and reporting requirements for EDCs. Proposed new paragraph (d)2 requires a listing of distribution circuits by municipality, indicating the number of hazard trees for which permission to remove was denied. Proposed new subsection (e) states the requirement that the EDCs track and report vegetation management progress in the Annual System Performance Report.

Recodified N.J.A.C. 14:5-9.10 pertains to the requirements for public notice that the EDCs are expected to abide by to provide their customers with sufficient notice of upcoming planned vegetation management activities. Subsection (f) is proposed for amendment to replace the term "town clerk" with "municipal clerk."

N.J.A.C. 14:5-9.11 pertains to the outreach programs that EDCs are required to conduct to let the public know about the importance of vegetation management activities and is proposed for readoption without amendment.

N.J.A.C. 14:5-9.12 pertains to the penalties that an EDC is subject to for failure to comply with the vegetation management rules. Subsection (b) is proposed for amendment to state that an EDC that violates this subchapter may be subject to monetary penalties, as determined by the

Board, up to the maximum penalty permitted by law, rather than \$100.00 per day of violation.

Social Impact

The rules proposed for readoption with amendments, new rules, and a repeal relate directly to the provision of safe, adequate, and proper service by New Jersey electric utilities. Said rules are necessary to ensure that electric plant is constructed and installed pursuant to acceptable standards and is maintained and inspected in a manner that will protect the safety and well-being of the public. The amendments and new rules will ensure that the State’s EDCs continue to provide safe and reliable service to their customers. Amendments that have been proposed to achieve this goal include: 1. a requirement for a quarterly outage and substation outage report; 2. enhanced vegetation management standards, training, recordkeeping, and reporting; and 3. enhanced minimum reliability levels for CAIDI and SAIFI.

Economic Impact

As a result of the rules proposed for readoption with amendments, new rules, and a repeal, EDCs, as they have in the past, will incur expenses for, among other things, inspecting and testing their plant and meters and maintaining required records, conducting vegetation management activities, and providing notice of proposed vegetation management activities. Since these items represent appropriate business activities, all reasonable levels of costs associated with them will be passed along to ratepayers through rates for service.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require 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 National Electric Reliability Corporation (NERC) standard FAC-003, Transmission Vegetation Management, applies only to transmission lines (69 kilovolts and above) that are classified as an element of an Interconnection Reliability Operating Limit (IROL). While New Jersey EDCs operate a number of transmission lines that are not so classified, the loss of any of these lines may cause wide spread outage to customers in New Jersey. Therefore, the Chapter 5 requires all transmission lines in New Jersey to meet the NERC Minimum Vegetation Clearance Distances, a spark over distance, and also require the EDCs to remove all vegetation within the relevant EDC’s rights of way, such that no vegetation will fall into the line (N.J.A.C. 14:5-9.7(e)1). The Board’s rules and proposed amendments also set forth vegetation management requirements for distribution lines that are not subject to the NERC FAC-003.

N.J.A.C. 14:5-6.1 contains the adoption by reference of the Uniform System of Accounts for Classes A and B Electric Utilities that have been promulgated by the Federal Energy Regulatory Commission (FERC), as well as any subsequent amendments, revisions, deletions and corrections, which FERC may make thereto. The remainder of the subject matter of the rules proposed for readoption with amendments is not the subject of any Federal law, rule, or regulation.

Jobs Impact

The Board does not anticipate that the rules proposed for readoption with amendments, new rules, and a repeal will either cause jobs to be generated or lost in any area of the State’s economy.

Agriculture Industry Impact

The Board does not anticipate that the rules proposed for readoption with amendments, new rules, and a repeal will have any impact on the agriculture industry of the State.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments, new rules, and a repeal will not impose reporting, recordkeeping, or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., in that no regulated New Jersey electric distribution company has fewer than 100 full-time employees.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, new rules, and a repeal will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the regulation of electric utilities.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, a repeal, and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the 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 in New Jersey because the rules pertain to the regulation of electric utilities.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:5.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14:5-9.2

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

SUBCHAPTER 1. SCOPE AND APPLICABILITY

14:5-1.2 Definitions

For the purposes of this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

“Agricultural crop” means a plant that is grown in significant quantities to be harvested as food, livestock fodder, or for another economic purpose. This term includes, but is not limited to, landscape nursery stock and Christmas tree plantation stock.

“Annual System Performance Report” or “Annual Report” means an annual report containing the information requested in N.J.A.C. 14:5-[8.7]8.8. This report is to be submitted to the Board by May 31 of each year.

[“Benchmark” means the five-year average (2002-2006) of CAIDI and SAIFI or a value determined by the Board.]

“ANSI” means the American National Standards Institute. ANSI codes and documents may be obtained at www.ansi.org.

“Arboriculture” means the cultivation of trees, shrubs, and other woody plants.

...
“Border zone” means the space from the edge of the transmission line wire zone to the outer boundary of the right of way.

“Contractor” means a person or entity, other than the Board, with which a utility contracts to perform work, furnish information, or provide material. This term includes all subcontractors engaged by a contractor to perform any of the obligations required by a contract.

...
“Danger tree” is any tree on or off the right of way that could contact electric supply lines if it were to fall.

...
“Distribution line” means a primary electric voltage line, wire, or cable operating at greater than 600 volts, including supporting structures and appurtenant facilities that would not be considered a transmission line.

...
“Electric overhead transmission corridor” refers to the expanse of land over which electric transmission lines are located. The corridor may be compromised of multiple electric utility rights-of-way and/or circuits. The EDC may own the land in fee, own an easement, or have certain franchise, prescription, or license rights to construct and maintain the lines with respect to such land.

“Electric utility arborist” means a person engaged in the profession of electric utility vegetation management who, through appropriate certifications, experience, education, and related training, possesses the competence to provide for or supervise, an EDCs integrated vegetation management program. The person, at a

minimum, must be certified as a Utility Specialist by the International Society of Arboriculture and also as a Certified Arborist by the International Society of Arboriculture.

“Energized conductor” means an electric circuit or piece of equipment through which electricity is flowing or usually flows. This term includes both distribution and transmission circuits and equipment.

“Grass” means a type of plant with jointed stems, slender flat leaves, and spike-like flowers.

“Hazard tree” is a structurally unsound tree on or off the right of way that could strike electric supply lines when it fails. Structural unsoundness distinguishes a hazard tree from a danger tree, such that while all hazard trees are danger trees, not all danger trees are hazard trees.

“IEEE” means a professional association for the advancement of technology, which was originally named the Institute of Electrical and Electronic Engineers. The IEEE is located at 445 Hoes Lane, Piscataway, NJ 08854. Further information can be obtained on the IEEE website at <http://www.ieee.org/portal/site>.

“Inactive transmission line corridor” means that unused segment of the right of way that does not have transmission towers or transmission lines overhead.

“Integrated vegetation management” or “IVM” means a system of managing plant communities whereby vegetation managers set objectives, identify compatible and incompatible vegetation, consider action thresholds, and evaluate, select, and implement the most appropriate vegetation control method(s) to achieve those objectives, based on the methods’ environmental impact and anticipated effectiveness, along with site characteristics, security, economics, current land use, and other factors.

...

“Interruption, unscheduled” means any interruption of electric service that is not an “interruption, scheduled.”

“Lock out zone” refers to the portion of the EDC’s distribution circuit, which begins at the substation or switching station and continues to the first protective device.

“Major event” means any of the following:

1.-4. (No change.)

Interruptions occurring during a major event in one or more operating areas shall not be included in the EDC’s CAIDI and SAIFI calculations of those affected operating area(s). However, interruption data for major events shall be collected, according to the reporting requirements outlined in N.J.A.C. 14:5-[8.8 and] 8.9 and 8.10.

“Minimum reliability level” means the minimum acceptable reliability as measured by CAIDI and SAIFI data as specified in N.J.A.C. 14:5-[8.9]8.10. Performance equal to or better than the minimum reliability level is acceptable. Performance that is worse than the minimum reliability level is unacceptable and may be subject to penalty.

“Mitigate” means the process of diminishing risk associated with hazard trees through application of prudent IVM techniques, which include tree removal or pruning, and practical engineering solutions used in the judgment of the vegetation manager to make safe and eliminate or adequately reduce the risks of the hazard tree to the distribution system.

“NERC” means the North American Electric Reliability Corporation.

...

“Right of way” or “ROW” means less than fee interest in property, which gives a public utility a limited right to use land owned by another person or entity for the purpose of transmitting or distributing electricity. This right is typically memorialized in an easement. This term also includes the parcel of land for which a public utility holds a right of way or easement.

...

[“Unscheduled interruption” means any interruption of electric service that is not an “interruption, scheduled,” as defined in this section.]

“Transmission line” means an electrical line, wire, or cable, (including the supporting structures) and appurtenant facilities that transmits electricity from a generating plant to electric substations or

switching stations. An electric transmission line usually has a rating exceeding 69 kilovolts.

“Tree” means a tall perennial woody plant with a main trunk and branches forming a distinct elevated crown.

“Vegetation” means trees and other plants.

“Vegetation management” means the removal of vegetation or the prevention of vegetative growth, to maintain safe conditions around energized conductor(s) and ensure reliable electric service. Vegetation management consists of biological, chemical, cultural, manual, and mechanical methods to control vegetation in order to prevent hazards caused by the encroachment of vegetation on energized conductor(s), and to provide utility access to the conductor.

“Vegetation manager” or “VM” means an electric utility arborist, who is employed by an EDC to supervise and ensure the EDC’s compliance with this chapter.

“Wire zone” means the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, version three, which is incorporated herein by reference, as amended and supplemented, and available at www.nerc.com.

“Woody plant” means any vascular plant that has a perennial woody stem and supports continued vegetative growth above ground from year to year and includes trees.

SUBCHAPTER 2. PLANT

14:5-2.1 Plant construction

(a) The construction and installation of plant and facilities of EDCs must be in accordance with all of the following, as they applied at the time of construction:

1.-2. (No change.)

3. The [2007] 2012 National Electrical Safety Code, which is available at <http://standards.ieee.org/nesc/>.

(b) (No change.)

SUBCHAPTER 3. SERVICE

14:5-3.2 Adequacy of service

(a) EDCs supplying electrical energy on a constant potential system shall adopt and maintain a standard average value of voltage as measured at the point of attachment to the customer’s wiring; and the normal variations, as measured by a standardized voltmeter, shall not vary for periods exceeding five minutes for service supplied at 150 volts or less to ground more than [four] five percent above, nor more than [four] five percent below said standard average voltage for said location, which is in force at the time; provided, however, the variations in voltage caused by the operation of apparatus in the customer’s premises in violation of the utility’s rules, the action of the elements, or other causes beyond the EDC’s control shall not be considered a violation of this provision.

(b) (No change.)

SUBCHAPTER 7. ELECTRIC TRANSMISSION LINES

14:5-7.1 Requirements for electric transmission lines

(a) (No change.)

(b) An entity that conducts vegetation management under an overhead transmission line shall comply with the standards for vegetation management set forth in N.J.A.C. 14:5-[8]9.

SUBCHAPTER 8. ELECTRIC DISTRIBUTION SERVICE RELIABILITY AND QUALITY STANDARDS

14:5-8.1 Purpose and scope

(a) (No change.)

(b) [These rules] This subchapter, which include requirements for data maintenance, records retention, and service interruption information, establishes standards to measure the reliability of service on an annual,

quarterly, and as needed basis under all operating conditions except major events. Major events shall be examined on a case-by-case basis to determine whether or not the EDC's preparation and response were adequate. It is the general obligation of a regulated EDC to provide sufficient resources in order to provide safe, adequate, and proper service to its customers. The Board may also consider other factors in determining whether or not an EDC has provided adequate service.

(c)-(d) (No change.)

14:5-8.3 Service reliability

(a)-(b) (No change.)

(c) Interruptions shall not be reduced by [unduly] characterizing a sustained interruption as a series of momentary event interruptions. Electric service interruptions shall be reported in accordance with N.J.A.C. 14:3-3.7.

14:5-8.5 Individual circuit reliability performance

(a)-(b) (No change.)

(c) An EDC that files an [annual report] **Annual Report** under N.J.A.C. 14:5-[8.7]**8.8**, which identifies one or more operating areas that have values above the minimum performance level for CAIDI and SAIFI, shall review its previous two annual reports for purposes of addressing operating area reliability performance.

(d) If one or more operating areas has values higher than the minimum performance level for CAIDI and SAIFI in two of the past three annual reports, the EDC shall further examine its equipment and circuits for causes of systemic outages, shall implement corrective measures as required under (b) above, and shall report on these circuits and corrective measures as required under N.J.A.C. 14:5-[8.7(g)]**8.8(g)**.

14:5-8.6 Inspection and maintenance programs

(a) (No change.)

(b) Each EDC shall submit to the Board, in the Annual System Performance Report, compliance plans for the inspections, maintenance, and recordkeeping required in this subchapter, including those related to vegetation management as required under N.J.A.C. 14:5-[8.7(c)9]**8.8(c)9**. These compliance plans shall include individual programs aimed at reducing specific outage causes.

(c) (No change.)

(d) **Each EDC shall track and report hazard trees on the distribution system that cannot be mitigated by the EDC.**

1. The EDC will conduct a visual Level 1 identification (as per ANSI A300, Part 9) and recording of hazard trees. This process will only be performed by appropriately trained professionals designated by the VM as part of the EDC's planned vegetation management work for each cycle year of the four-year cycle. Data for the preceding performance year regarding hazard trees that cannot be mitigated by the EDC should be provided to the Board on an annual basis.

2. Each EDC shall specifically identify hazard trees deemed a potential threat to the distribution system by the EDC's vegetation management professionals, both within and outside of the existing easement or ROW for the infrastructure, that the EDC cannot mitigate due to either municipal or property owner resistance.

3. The EDCs shall provide the information required by N.J.A.C. 14:5-9.9(d)2 in the Annual System Performance Report for trees identified in (d)1 above. The EDCs shall not provide specific location or customer or property owner data as part of the information contained in the Annual System Performance Report.

14:5-8.7 Quarterly reporting

(a) **On a quarterly basis, each EDC shall prepare and submit a report to the Board's Energy Division providing the following information regarding all outages experienced and recorded during each quarter (other than momentary outages as defined by IEEE 1366 and major events, which shall be excluded). Each quarterly report shall be due within 60 days of the end of the quarter.**

1. The quarterly outage reports shall provide the following information:

i. Outage type (primary, secondary, or service line, specific equipment);

ii. Circuit ID and type;

iii. Source substation;

iv. Number of customers on the circuit;

v. The municipality where the outage occurred;

vi. Number of customers affected by this outage;

vii. Start date/time of the outage;

viii. Total duration of outage in minutes; and

ix. The cause of outage (for example, vegetation, equipment failure, outside influence).

2. Each EDC may use its own method for identifying the type of outage, provided that each type of outage is clearly described.

3. The EDC shall provide an explanatory summary of any unique circumstances or potential problems identified and include a glossary of terms.

4. All outage data shall be submitted in a Microsoft Office Excel spreadsheet file. The explanatory summary may be submitted in another electronic document format compatible with Microsoft Office or Adobe Acrobat.

(b) The EDCs shall provide an additional Microsoft Office Excel spreadsheet detailing substation outage information.

1. The report shall include the substation ID, number of outages experienced at each substation due to substation specific equipment, duration of outages, and the number of customers affected by each outage.

2. The EDCs shall provide an explanatory summary of any unique circumstances or potential problems identified. The summary analysis should highlight areas that the EDCs determine need to be addressed, such as reliability problems (local or systemic), equipment issues, mitigation plans, and plans to address high-outage areas.

3. The substation outage data shall be submitted in a Microsoft Office Excel spreadsheet file. The explanatory summary may be submitted in another electronic document format compatible with Microsoft Office or Adobe Acrobat.

(c) The quarterly reports shall be submitted in an electronic form, both in redacted and unredacted versions, in accordance with the Board's rules on confidential information at N.J.A.C. 14:1-12, to protect security sensitive and other confidential information, such as circuit ID, substation information, circuit type and circuit location other than municipality, and number of customers on the circuit.

14:5-[8.7]**8.8** Annual System Performance Report

(a) Each EDC shall submit to the Board an Annual System Performance Report [(the "Annual Report")] by May 31 of each year. The EDC shall also submit a copy of the report to Rate Counsel at the same time, which may be submitted electronically, at the discretion of the EDC.

(b) (No change.)

(c) The [Annual Report] **annual report** shall also include a summary of:

1.-7. (No change.)

8. The number of personnel (broken down by bargaining and non-bargaining unit) in each EDC's operating area(s) and a summary statement referencing each EDC's training program; [and]

9. The vegetation management work and planned activities as required in N.J.A.C. 14:5-9.7[.]; **and**

10. Hazard tree information as required in N.J.A.C. 14:5-8.6(d)3.

(d)-(f) (No change.)

(g) Each EDC shall include in its [Annual Report the greater of four] **annual report eight percent [or a quantity of five] of its worst-performing circuits identified in each of its operating areas in N.J.A.C. 14:5-8.5(b) based on the reliability performance parameters in N.J.A.C. 14:5-8.5(a) and the corrective actions taken or to be taken. [If no corrective actions are planned, an explanation shall be provided.]**

1. The EDCs will list the circuits that were:

i. Addressed and the work completed to address them during the applicable performance year; and

ii. Identified at the end of the applicable performance year to be addressed in the next performance year.

2. The EDCs will implement mitigation for these circuits as soon as possible but not later than one year from submission of the annual

report with the goal of improving the circuit's reliability performance metrics.

3. If an EDC contends that the mitigation work cannot be implemented within that timeframe, the EDC must provide a detailed explanation to the Board of the reasons.

(h) (No change.)

14:5-[8.8]8.9 (No change in text.)

14:5-[8.9]8.10 Establishment of reliability service performance level

(a) For each of an EDC's operating areas, the CAIDI and SAIFI reliability performance levels [is established] shall be as follows:

1. The operating area's CAIDI benchmark standard is set at the 5-year average CAIDI for the years 2002-2006;

2. The operating area's SAIFI benchmark standard is set at the 5-year average SAIFI for the years 2002-2006;

3. The minimum reliability level for each operating area is attained when its annual CAIDI and SAIFI are no higher than the CAIDI and SAIFI five-year benchmark standard plus 1.5 standard deviations.]

1. For Public Service Electric & Gas Company, the CAIDI minimum reliability level shall be 66.35 customer interruption minutes. The SAIFI minimum reliability level shall be 0.80 customer interruptions;

2. For Jersey Central Power & Light Company, the CAIDI minimum reliability level shall be 122.25 customer interruption minutes. The SAIFI minimum reliability level shall be 1.19 customer interruptions;

3. For Rockland Electric Company, the CAIDI minimum reliability level shall be 128.45 customer interruption minutes. The SAIFI minimum reliability level shall be 1.23 customer interruptions; and

4. For Atlantic City Electric Company, the CAIDI minimum reliability level shall be 107 customer interruption minutes, reduced to 96 customer interruption minutes by 2016. The SAIFI minimum reliability level shall be 1.45 customer interruptions, reduced to 1.30 customer interruptions by 2016.

(b)-(c) (No change.)

14:5-[8.10]8.11 Prompt restoration standards

(a) EDCs shall begin the restoration of service to an affected service area within two hours of notification by two or more customers or identification by their [operating] outage management system of any loss of electric service affecting those customers served electrically by the same affected circuit protective device within the system. Beginning restoration of service shall be defined as the essential or required analysis of the interruption and dispatching an individual or crew to an affected area to begin the restoration process.

(b)-(d) (No change)

14:5-[8.11]8.12 (No change in text.)

14:5-[8.12]8.13 Penalties

(a) Civil administrative penalties for violations of the reporting and planning and program submission requirements set out in N.J.A.C. 14:5-8.3 through [8.8]8.9 and [8.10] 8.11 shall be assessed as follows:

1.-2. (No change.)

(b)-(d) (No change.)

SUBCHAPTER 9. ELECTRIC UTILITY LINE VEGETATION MANAGEMENT

14:5-9.1 Purpose and scope

This subchapter sets forth requirements that EDCs shall follow in managing vegetation in proximity to an energized conductor in order to ensure public safety and the efficient and reliable supply of electric power using integrated vegetation management and sound arboricultural practices.

14:5-9.2 (Reserved)

14:5-9.3 General provisions

(a)-(c) (No change.)

(d) Each EDC shall employ a vegetation manager, who is an electric utility arborist[, as defined at N.J.A.C. 14:5-9.2]. The VM shall be a utility employee, not a contractor. The electric public utility shall provide the VM with the authority and the resources to administer all aspects of the utility's vegetation management program, and the VM shall ensure that the electric public utility complies with this subchapter. The VM's name and contact information shall be posted on the electric utility's [web site] website and shall be included on all notifications provided pursuant to the notice requirements of N.J.A.C. 14:5-[9.8]9.10.

(e) (No change.)

[(f) An EDC that performs vegetation management at the request of a municipality or government agency, other than vegetation management required under this subchapter, may require the requesting party to pay any incremental cost above the EDC's cost to perform the vegetation management required by this subchapter. An EDC shall not perform such additional vegetation management if the additional vegetation management would decrease the reliability or safety of an energized conductor.]

(f) In addition to the vegetation management work required under this subchapter, an EDC, at the sole discretion of the EDC's VM, may perform additional vegetation management work, on the EDC's distribution system, which is requested to meet the aesthetic desires of a municipality or a private property owner and which is brought to the attention of the EDC's VM before the EDC's vegetation management commences in a municipality or on a private property owner's property, provided that the additional work requested will not impair the EDC's ability to meet the reliability and safety objectives of this subchapter, negatively impact the EDC's schedule of vegetation management work, or require incremental costs. An EDC that performs vegetation management on the EDC's distribution system at the request of a municipality, government agency, or private property owner, other than the vegetation management work required under this subchapter, may require the requesting party to pay any incremental cost above the EDC's cost to perform the vegetation management required by this subchapter. This work shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-9.7.

(g) Upon a written request from a municipality, an EDC may, but is not required to, temporarily suspend compliance with one or more of the vegetation management requirements of this subchapter, within the following limits:

1. The suspension of compliance shall apply only to the distribution system, and shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-[9.6]9.7;

2.-3. (No change.)

4. If the suspension results in additional costs to the EDC due to lack of tree trimming or other vegetation management, the municipality shall reimburse the [electric public utility] EDC for [these] additional costs.

(h) (No change.)

(i) Each EDC shall perform vegetation management on a pro rata basis over the four-year cycle identified in N.J.A.C. 14:5-9.4(b) [to achieve full compliance by December 18, 2010].

14:5-9.4 Maintenance cycle

(a)-(b) (No change.)

(c) In addition to the maintenance required in (b) above, if an EDC becomes aware [at any time] of any vegetation close enough to its energized conductors to affect reliability or safety prior to the next required vegetation management activity or the presence of hazard trees, the electric utility shall ensure that necessary vegetation management is promptly performed as required under N.J.A.C. 14:5-[9.5]9.6 and 9.7.

(d) If the EDC determines that vegetation described under (c) above poses an immediate safety hazard, the EDC shall not be subject to the notice requirements at N.J.A.C. 14:5-[9.8]9.10. However, the EDC shall, to the extent practicable, make a reasonable effort to notify the customers and property owners described at N.J.A.C. 14:5-[9.8(b)]9.10(b)1 and 2 prior to performing the vegetation management.

14:5-9.5 Hazard trees

(a) If the EDC's VM determines that a tree meets the definition of a hazard tree, the EDC shall determine if it is permitted (for example, by easement, tariff, or law) to remove or mitigate the hazard tree. If the EDC determines that it is not permitted to remove or mitigate the hazard tree, the EDC shall attempt to obtain permission to remove or mitigate the hazard tree.

(b) If permission is granted or it is determined that permission is not necessary under (a) above, the EDC shall arrange to remove or mitigate the hazard tree as part of the scheduled vegetation management work to be performed during the current year, unless the VM determines that the condition of the hazard tree poses an imminent risk of failure, in which case, the EDC shall remove or mitigate the hazard tree as soon as practicable.

(c) The EDC is required to comply with the recording and reporting requirements of this subchapter as set forth at N.J.A.C. 14:5-9.9(d)2.

14:5-[9.5]9.6 Technical standards for vegetation management

(a) Each EDC shall ensure that vegetation management conducted on its energized conductors is performed in accordance with the standards and accepted procedures set forth in the following publications, which are incorporated herein by reference [including amendments and supplements], as amended and supplemented thereto:

[1. Pruning Trees Near Electric Utility Lines, by Dr. Alex L. Shigo. This publication may be obtained from Shigo and Tree Associates, P.O. Box 769, Durham, New Hampshire 03824;]

[2.] 1. Part 1 of the document entitled Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (**Pruning**). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

2. Part 7 of the document entitled for Tree Care Operations-Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (**Integrated Vegetation Management A. Utility Rights-Of-Way**). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

3. Part 9 of the document entitled for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (**Tree Risk Assessment**). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

[3.] 4. Best Management Practices, Utility Pruning of Trees, 2004. This title is published by the International Society of Arboriculture and may be obtained at [<http://secure.isa-arbor.com/store/Best-Management-Practices-pUtility-Pruning-of-Trees-P23060.aspx>] <http://www.isaarbor.com/store/product.aspx?ProductID=65>;

[4. Environmental Stewardship Strategy for Electric Utility Rights-of-Way, (2002). This title is published by the Edison Electric Institute Vegetation Management Task Force, which may be obtained at www.eei.org;

5. Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements, [1994] 2012. This document, also known as ANSI Z133.1, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

6. Native Trees, Shrubs And Vines For Urban And Rural America: A Planting Design Manual for Environmental Designers, by Hightshoe, G.L., 1987, is published by John Wiley and Sons and may be obtained [at <http://www.wiley.com/WileyCDA/WileyTitle/productCd-0471288799.html>] from various resellers;

7. Manual of woody landscape plants 5th Ed., by Michael A. Dirr. Stipes Publishing, LLC; 5th edition (August, 1998), and may be obtained [at <http://www.amazon.com/exec/obidos/tg/detail/-/0875637957/103-3217696-1920611?v=glance>] from various resellers;

8. Hortus Third: A concise dictionary of plants cultivated in the United States and Canada, by L.H. Bailey Hortorium, 1976, and may be obtained [at <http://www.wiley.com/WileyCDA/WileyTitle/productCd-0025054708.html>] from various resellers; and

9. National Electric Safety Code C2-[2007]2012. ISBN: [Z2-RES69-07] 9780738165882 is published by the Institute of Electrical and Electronics Engineers, Inc., and may be purchased at www.ieee.org.

(b) Where multiple standards or methods listed at (a) above would apply or conflict, the VM or his or her designee shall select the most appropriate standard or method under the circumstances.

(c) Each EDC shall develop its own vegetation management standards and guidelines, which shall be consistent with this subchapter. In developing these standards and guidelines, [a utility] an EDC shall prioritize work based upon:

1. (No change.)

2. The voltage of the affected energized conductor; [and]

3. The relative importance of the affected energized conductor in maintaining safety and reliability[.]; and

4. The presence and condition of any hazard trees.

(d) (No change.)

(e) Each EDC's vegetation management standards and guidelines shall cover, at a minimum, all of the following activities:

1. (No change.)

2. The procedures for handling the removal of hazard trees;

[2.] 3. Vegetation control around poles, substations, and other energized conductors;

Recodify existing 3.-6. as 4.-7. (No change in text.)

(f)-(g) (No change.)

14:5-[9.6]9.7 Transmission line vegetation management

(a) In addition to the other requirements of this subchapter, transmission lines, as defined at N.J.A.C. 14:5-[9.2]1.2, are subject to the requirements in this section.

(b) At a minimum, each EDC shall meet the requirements for minimum clearances between any transmission line and the closest vegetation, which are set forth in the North American Electric Reliability Corporation (NERC) FAC-003-3, which is incorporated herein by reference, as amended and supplemented and available at www.nerc.com.

(c)-(d) (No change.)

(e) In addition to meeting the other requirements in this section, each EDC shall ensure that the following requirements for transmission lines are met, except for those instances set forth in (f) below:

1. (No change.)

2. Only grass vegetation [not exceeding a height of 18 inches] shall be permitted to grow within three feet of any structure;

3.-5. (No change.)

(f) Notwithstanding (d) and (e) above, an EDC may leave trees and other woody vegetation within the transmission right of way under any of the following conditions:

1.-2. (No change.)

3. Trees [are] located within an inactive transmission corridor [and at mature height will allow a space of more than 150 percent of the clearance requirements for an electrical path to ground set forth in the National Electric Safety Code, §232 to §235].

(g) For the purposes of this section, the mature height of all vegetation, including agricultural crops, shall be determined in accordance with the publications listed in N.J.A.C. 14:5-[9.5(a)]9.6(a), or equivalent publications. Each EDC shall provide lists of acceptable species on its website or in a publication provided free of charge upon request by a ratepayer.

(h) Each year, by May 31, the EDC shall develop a schedule for transmission line vegetation management, which shall be included in the EDC's annual system performance report as required by N.J.A.C. 14:5-8.8. The schedule shall:

1.-3. (No change.)

(i) The EDC shall post the transmission line vegetation management schedule required under (h) above on its website and distribute it to affected municipalities and public authorities in accordance with N.J.A.C. 14:5-[9.8]9.10.

14:5-9.8 Distribution line vegetation management

(a) In addition to the other requirements of this subchapter, distribution lines are subject to the requirements in this section.

(b) Distribution lines shall be inspected and trimmed to maintain the horizontal clearance distance appropriate for the operating voltage and other factors as specified by the EDC's vegetation management standards as required by N.J.A.C. 14:5-9.6.

1. Starting on January 1, 2016, vegetation management practices shall include removal of all overhanging vegetation from distribution line segment from the substation/switching station to the first protective device (lock out zone) on the distribution line. For circuits that do not have a protective device, the EDC's VM will designate the area referred to as the lock out zone.

2. Mature trees may be exempt from the above requirements at the reasonable discretion of the EDC's VM as it pertains to the lock out zone.

14:5-[9.7]9.9 Training, recordkeeping, and reporting

(a)-(c) (No change.)

(d) Each EDC shall include a summary of the information required in (c) above about its vegetation management work during the past year, and planned activities for the following year in the Annual System Performance Report to be filed with the Board by May 31 of each year. [This information shall include, at a minimum, the name of each municipality in which the EDC conducted vegetation management during the preceding year, and all circuits affected.] The information provided under this requirement shall include:

1. At a minimum, the name of each municipality in which the EDC conducted vegetation management during the reporting year, and all circuits subject to such vegetation management; and

2. A listing of distribution circuits by municipality indicating the number of hazard trees for which permission to remove was denied.

(e) To track the completion of each vegetation management cycle for inspection and trimming required by this subchapter, each EDC shall include the following tables in the Annual System Performance Report to be filed with the Board by May 31 of each year:

1. A table that includes the following columns:

i. Percentage of electric overhead transmission corridor mileage inspected (and trimmed as necessary) for each of the three years prior to the reporting year of the Annual System Performance Report (three columns);

ii. Percentage of electric overhead transmission corridor mileage inspected for the reporting year of the Annual System Performance Report (one column); and

iii. Projected percentage of electric overhead transmission corridor mileage to be inspected for each of the three years following the reporting year of the Annual System Performance Report (three columns); and

2. A table that includes the following columns:

i. Percentage of distribution circuit length inspected (and trimmed as necessary) for each of the three years prior to the reporting year of the Annual System Performance Report (three columns);

ii. Percentage of distribution circuit length inspected (and trimmed as necessary) for the reporting year of the Annual System Performance Report (one column); and

iii. Projected percentage of distribution circuit length to be inspected (and trimmed as necessary) for each of the three years following the reporting year of the Annual System Performance Report (three columns).

14:5-[9.8]9.10 Public notice of planned vegetation management activity

(a)-(e) (No change.)

(f) For municipal governments, each EDC shall provide written notice of any pending vegetation management activities to a primary contact. For a municipality, the mayor, [town] municipal clerk, or other person or position mutually agreed upon shall be the primary contact. For other government entities and for public authorities, the primary contact shall be selected by mutual agreement between the EDC and the entity or authority.

(g)-(h) (No change.)

14:5-[9.9]9.11 (No change in text.)

14:5-[9.10]9.12 Penalties

(a) (No change.)

(b) An EDC that violates this subchapter may be subject to monetary penalties [of up to \$100.00 per day per violation,] for each day the violation occurs. The Board shall notify the EDC of the violation(s) in

writing. Upon receipt of the written notice of violation, the EDC shall have five business days to correct the violation(s). Any failure to correct the violation shall subject the EDC to penalties [of \$ 100.00] as determined by the Board per day for each violation, calculated from the day such written notice was received by the EDC and up to the maximum penalty permitted by law.

(c)-(d) (No change.)

TRANSPORTATION

(a)

DIVISION OF MULTIMODAL SERVICES

Transportation Utilities

Proposed Readoption with Amendments: N.J.A.C.

16:65

Proposed Recodification with Amendment: N.J.A.C.

16:65-1.2 as 2.1

Proposed New Rules: N.J.A.C. 16:65-1.2 and 4.6

Proposed Repeal: N.J.A.C. 16:65-1.3

Authorized By: Jamie Fox, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-12, 48:2-13, 48:12-35.1, 48:12-125.1, and 52:14B-3; and the October 5, 1978 Executive Reorganization Plan.

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

Proposal Number: PRN 2015-021.

Submit comments by May 15, 2015, to:

Miriam Weeks

Administrative Practice Officer

New Jersey Department of Transportation

PO Box 600

Trenton, New Jersey 08625-0600

Fax: (609) 530-4638

Submit electronically at njdotRules@dot.state.nj.us.

This rule may be viewed or downloaded from the Department's website at <http://www.state.nj.us/transportation/about/rules/proposals.shtm>.

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1.c(2) and Executive Order No. 66 (1978), N.J.A.C. 16:65 is scheduled to expire on August 3, 2015. This chapter provides a regulatory scheme for uniformly safe, proper, and adequate service by transportation utilities throughout the State. These utilities include railroads, street railways, traction railways, and subways, and are identified collectively as "transportation utilities."

The Department has reviewed the rules and determined that they are necessary, reasonable, and proper for the purposes for which they were originally promulgated. Changes are necessary to: add a scope; update contact information; revise definitions; reorganize text; and add provisions that grant the State, county, or municipality the right of first refusal where a railroad company seeks to sell or convey any part of its right-of-way.

Jurisdiction over street railways and other utilities was transferred to the Department, from the Board of Public Utilities, under the 1978 Executive Reorganization Plan. The Department administered its responsibilities for these utilities, along with autobuses, under N.J.A.C. 16:51, Practices and Procedures before the Office of Regulatory Affairs. As such, Chapter 51 was adopted by the Department to govern the filing of all pleadings and the practice and procedure of matters, other than contested case hearings, before the Office of Regulatory Affairs, and to set forth operational and administrative duties of licensed autobus companies and street railways. N.J.A.C. 16:51 was administered by the