required for certification, the Board shall credit whatever portion of the military education, training, or experience that is substantially equivalent towards meeting the requirements under this subchapter for the issuance of a certificate of registration.

e. Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

(a) DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF SOCIAL WORK EXAMINERS
Credit Towards Licensure for Education, Training, and Experience Received While Serving as a Member of the Armed Forces

Adopted New Rule: N.J.A.C. 13:44G-4.6

Adopted: February 10, 2015, by the State Board of Social Work Examiners, Dawn Appgar, Chair.
Filed: August 21, 2015, as R.2015 d.156, without change.
Effective Date: September 21, 2015.
Expiration Date: July 16, 2022.

Summary of Public Comment and Agency Response:

- The official comment period ended December 19, 2014. In order to ensure compliance with P.L. 2013, c. 259, the comment period was extended through January 4, 2015. The Board received one comment from Debra L. Wentz, Ph.D., Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.

RESPONSE: The Board thanks the commenter for her support.

Federal Standards Statement
A Federal standards analysis is not required because there are no Federal requirements or standards applicable to the adopted new rule.

Full text of the adopted new rule follows:

13:44G-4.6 Credit towards licensure or certification for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure or certification under N.J.A.C. 13:44G-4.1, 4.2, and 4.3 may apply to the Board for recognition of the applicant’s training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure or certification.

(b) The Board shall issue a license or certificate to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;
2. The relevant training, education, and experience the applicant received in the Armed Forces, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope, and intent to the program required for licensure or certification under N.J.A.C. 13:44G-4.1, 4.2, or 4.3. For the purpose of determining substantial equivalence of the applicant’s military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of social work that have been evaluated by the American Council on Education for substantial equivalence to civilian social work education; and
3. The applicant complies with all other requirements for licensure or certification, including successful completion of the applicable licensing examination.

(c) It is the applicant’s responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.

(d) If the applicant’s military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure or certification, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44G-4.1, 4.2, or 4.3 for the issuance of the license or certification.

(e) Satisfactory evidence of such training, education, and experience shall be assessed on a case-by-case basis.

PUBLIC UTILITIES

(b) BOARD OF PUBLIC UTILITIES
Rules of Practice

Readoption with Amendments: N.J.A.C. 14:1

Adopted New Rules: N.J.A.C. 14:1-5.16 and 7.5

Proposed: March 16, 2015, at 47 N.J.R. 626(a).
Filed: August 19, 2015, as R.2015 d.152, with non-substantial changes not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3), but with the proposed amendments to N.J.A.C. 14:1-1.3, 8.1, and 9.1 not adopted.
BPU Docket Number: AX15010031.

Summary of Public Comments and Agency Responses:

- Andrew D. Hendry on behalf of the New Jersey Utilities Association (NJUA);
- Maura Caroselli, Esq. on behalf of the New Jersey Division of Rate Counsel (Rate Counsel); and William D. Smith, Esq. on behalf of Verizon New Jersey Inc. (Verizon) submitted timely comments on the notice of proposal.

N.J.A.C. 14:1-1.3; 8.1, and 9.1

COMMENT: Rate Counsel opposes the proposed amendment to the definition of ‘presiding officer.” Rate Counsel asserts that if adopted, the amendment to the definition in N.J.A.C. 14:1-1.3 would “allow a ‘presiding officer’ to preside over contested cases” and “would allow a member of Board staff to be designated as a presiding officer and conduct a hearing in a contested case.” The commenter contends that permitting Board staff members to appear as presiding officers in contested matters is contrary to prevailing case law and is contrary to the 1978 amendments to the Administrative Procedure Act (APA), N.J.S.A. 52:14F-1 et seq. The commenter states that New Jersey Courts and the Legislature have been clear that an inherent bias or conflict exists when agency employees sit as hearing officers and adjudicate contested matters, and therefore, the
proposed amendment to N.J.A.C. 14:1-1.3 directly conflicts with New Jersey statutes and case law and should not be adopted.

Additionally, Rate Counsel opposes the proposed amendment to N.J.A.C. 14:1-8.1(a) and the corresponding change to N.J.A.C. 14:1-9.1 because it would facilitate efficient completion of real estate transactions made in the ordinary course of business without affecting the purpose of the rule, which is geared to companies subject to rate-of-return regulation. The commenter asserts that such a targeted and modest change would further the objectives of both the executive and legislative branches of New Jersey government, which have tasked regulatory agencies, including the Board, with the elimination of unnecessary regulation wherever possible.

The commenter believes that companies should be allowed to utilize or dispose of excess real estate space in an efficient manner, without complying with unnecessary rules that frustrate and lengthen the marketing process for these excess and unused properties. Additionally, the significant technological and market changes that have occurred, the disposition of excess and unused property is in the ordinary course of business” if it was conveyed for less than $500,000 or if it course of business” if it was conveyed for less than $500,000 or if it.

N.J.A.C. 14:1-5.6(k)

COMMENT: Rate Counsel is not opposed to the proposed changes to this section, but proposes that the Board add an additional subsection. The commenter recommends that conveyed properties where environmental remediation of manufactured gas plants (MGP) has occurred be subject to N.J.A.C. 14:1-5.6(a), which requires the utility to file a formal petition to the Board to obtain approval for the proposed sale or conveyance of the property and not qualify under the exemptions in N.J.A.C. 14:1-5.6(c), (d), or (e) for properties conveyed in the “ordinary course of business” as explained in N.J.A.C. 14:1-5.6(k).

The commenter believes that under the current and proposed rule, MGP property can be exempted from the requirements regarding petition to the Board and inaccurately qualify as a conveyance within the “ordinary course of business” if it was conveyed for less than $500,000 or if it qualifies under another technical exemption of N.J.A.C. 14:1-5.6.

The commenter believes that the conveyance of this property is not within the “ordinary course of business,” which only requires utility notice of the conveyance and not a petition, because the cost to remediate the property is subsidized by ratemakers and that any transference of the property, even if it is for less than $500,000 threshold specified by N.J.A.C. 14:1-5.6(d), must be subject to petition to the Board and Rate Counsel for approval to ensure that the sale is appropriately reflected as a credit to ratepayers. Finally, the commenter believes that Rate Counsel should be notified prior to the conveyance of MGP properties since the utility retains potential liability for additional remediation or other environmental matters even after the property is sold. MGP properties could contain residual contamination that makes conveyance for some uses inappropriate.

Rate Counsel proposes that the following additional language noted in bold be added to N.J.A.C. 14:1-5.6(a):

“Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or any interest therein as required by law, or for property which was the site of a remediated manufactured gas plant shall conform to the provisions of....”

Rate Counsel also proposes an additional paragraph (a)(6), which would read “16. A copy of all petitions regarding property that was the site of a remediated manufactured gas plant shall be submitted to the Division of Rate Counsel.”

RESPONSE: While the Board understands Rate Counsel’s concerns about the sale of property that has been remediated using ratepayer funds, since all property that is subject to this section is utility property that has been remediated by ratemakers, the Board does not agree that any special treatment is required. Accordingly, the Board declines to adopt the additional amendments.

COMMENT: Verizon appreciates the efforts of the Board to update and streamline the rules. However, the commenter believes that the Board should take another step in that regard and requests the Board make limited modifications to N.J.A.C. 14:1-5.6. Petitions for the approval of the sale or lease of property, to streamline the procedures for certain real estate transactions of companies subject to an alternative regulatory plan.

The commenter states that its proposed modifications to the rule would facilitate efficient completion of real estate transactions made in the ordinary course of business without affecting the purpose of the rule, which is geared to companies subject to rate-of-return regulation. The commenter asserts that such a targeted and modest change would further the objectives of both the executive and legislative branches of New Jersey government, which have tasked regulatory agencies, including the Board, with the elimination of unnecessary regulation wherever possible.

The commenter believes that companies should be allowed to utilize or dispose of excess real estate space in an efficient manner, without complying with unnecessary rules that frustrate and lengthen the marketing process for these excess and unused properties. Additionally, given the significant technological and market changes that have occurred, the disposition of excess and unused property is in the ordinary course of business” if it was conveyed for less than $500,000 or if it.

NEW JERSEY REGISTER, MONDAY, SEPTEMBER 21, 2015 (CITE 47 N.J.R. 2389)
N.J.A.C. 14:1-5.16

COMMENT: Rate Counsel agrees that this section permitting interested parties to petition for rulemakings should be added to the chapter, but the Board’s rule does not include the new language proposed by the OAL to the companion rule at N.J.A.C. 1:30-4.1, which allows petitions to be filed, in addition to hard copy, by e-mail and requires agencies to publish on its website each petition for rulemaking. The OAL’s notice of proposal appeared in the November 17, 2014, New Jersey Register, 46 N.J.R. 2221(a) but has not yet been adopted. The commenter states that the language proposed to be added at the end of N.J.A.C. 1:30-4.1(a) is as follows: “Such petition may be submitted to an agency through mail, e-mail, or, if designated to receive message, electronic mailing list or through any other means.” The commenter also requests that the Board add additional language to N.J.A.C. 1:4:1-5.16(a) to read “A copy of each petition for rulemaking shall be filed by mail or hand-delivery at the Division of Rate Counsel, 140 E. Front St., 4th Floor, P.O. Box 003, Trenton, New Jersey 08625.” (Rate Counsel)

RESPONSE: The Board notes that following receipt of the comment, the adoption of the OAL rule proposal noted by Rate Counsel was published in the June 15, 2015 New Jersey Register at 47 N.J.R. 1311(b). The adopted language is similar to N.J.S.A. 52:14B-4(f), however, it adds, “if designated to receive messages” as modifying “electronic mailing lists.” N.J.S.A. 52:14B-4(f) specifically leaves to agency rulemaking “the form for the petition and the procedure for consideration and disposition of the petition.” The Board does not currently accept the filing of any petitions electronically or by e-mail, and to do so solely for rulemaking petitions would be impracticable. However, the Board continues to investigate systems it could implement to permit such filings in the future.

Finally, the Board declines to require that petitions for rulemaking be filed with Rate Counsel. Adopted new N.J.A.C. 14:1-5.16 is consistent with OAL rules for petitions for rulemaking found at N.J.A.C. 1:30-4, which only require that the agency, in this case the Board, take action. If the Board does grant a petition for rulemaking, Rate Counsel, along with all other interested parties and members of the public, will be able to comment on the rule proposal. The Board’s rulemaking process is already subject to all of the provisions of N.J.A.C. 1:30, and the Board has an established process for filing of petitions, which is set forth in N.J.A.C. 14:1-5. The Board also notes that all petitions for rulemaking and the subsequent notices have been published on the Board’s website (http://www.state.nj.us/bpu/agenda/rules/) since the 2014 amendments to the APA which Rate Counsel references in its comment, took effect.

N.J.A.C. 14:1-7.5

COMMENT: NJUA urges that the Board reconsider proposed new N.J.A.C. 14:1-7.5, Approval of settlements. The commenter believes that existing rules already set forth the processes related to settlement agreements and the proposed new rule may cause confusion. The commenter is concerned that, without modification, this rule may be construed as expanding the types of “settlements” that must be approved by the Board or a presiding Commissioner. Such documents shall only be distributed to the addressee.

14:1-1.3 Definitions

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

1. “Presiding officer” means any member of the Board or a staff member who is designated *as a hearing examiner* in [*that* an uncontested* case.

14:1-1.5 Requesting Board action on a complaint

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

(b)(c) (No change.)

14:1-1.6 Communications

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

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

SUBCHAPTER 5. PETITIONS

14:1-5.4 Procedures of Board on filing of petition

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

(d) If within the time allowed for answer, the respondent makes an offer of satisfaction, which is accepted by the petitioner, such offer and acceptance signed by the parties or their attorneys shall be filed with the Board and if not acted on by the Board within 60 days, the petition shall be deemed satisfied and the proceedings closed without further action.

(e) (No change.)

14:1-5.5 Petitions for approval of franchises or consents

(a) (No change.)
purposes and the sale or other disposition of the property will not affect the utility, where there is no prospective use of the property for utility surplus personal property or equipment no longer used or useful to the merits may be deemed to be in the ordinary course of business: "ordinary course of business" shall include, in addition to any other transaction that on its occupancy real property or any interest therein having a net book cost not in excess of $500,000 and a net rental not in excess of $50,000 per annum; the sale or lease, lease, or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.A.C. 14:1-4 and 5.1 through 5.4 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information: the utility’s ability to continue to provide safe, adequate, and proper service.

2. Any quit claim deed to resolve an ambiguity or dispute, corrective deed, exchange of personal property with comparable market values, or the exchange of contiguous real property where such exchange does not compromise the needs of the utility and the affected properties have comparable market values; or

3. The grant by a utility of easements, licenses, tower leases, and rooftop leases where such transactions do not compromise the needs of the utility and will not affect the utility’s ability to provide safe, adequate, and proper service.

14:1-5.8 Petitions for authority to exercise power of eminent domain (a) Petitions for authority to exercise the power of eminent domain shall conform to the requirements of N.J.A.C. 14:1-4 and 5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information: 1.-4. (No change.)

5. Allegations that the property desired is reasonably necessary for the service, accommodation, convenience, or safety of the public, and that the taking of such property is not incompatible with the public interest, and would not unduly injure the owners of private property; 6.-7. (No change.)

(b) (No change.)

14:1-5.13 Informal complaint in lieu of petition (a)(a) (b) (No change.)

(c) While no form of informal complaint is prescribed, to be considered by the Board, such informal complaint must state the name and address of the complainant and the party complained of, as well as the essential facts upon which the complaint is based, including the dates of acts or omissions complained of and the desired outcome.

d)-(i) (No change.)

14:1-5.16 Petitions for rulemaking (a) An interested person may petition the Board to adopt a new rule or amend or repeal an existing rule.

(b) The review of the petition by the Board shall not be considered a contested case and is not subject to the provisions of N.J.A.C. 14:1-8.

(c) The petition must be submitted pursuant to the provisions of this subchapter and shall state clearly and concisely:

1. The substance or nature of the rulemaking that is requested;

2. The reasons for the request and the petitioner’s interest in the request; and

3. References to the authority of the agency to take the requested action.

(d) The petitioner may provide the text of the proposed new rule, amended rule, or repealed rule.

(e) Any filing submitted to the Board that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action, and the filer shall be so notified within 15 days of receipt of the filing.

(f) In accordance with N.J.A.C. 1:30-4.1(c), the Board shall file a notice of the petition’s receipt with the Office of Administrative Law within 15 days of receipt of the petition.

(g) In accordance with N.J.A.C. 1:30-4.2(a), within 60 days following receipt of a petition, the Board shall mail to the petitioner and file with the Office of Administrative Law for publication in the 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 (b)(3) above and/or to initiate a rulemaking proceeding under (b)(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. *This section shall not apply to withdrawn petitions or informal complaints.*

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 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 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 *[that is determined]* *which the Board determines* 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 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 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 notice. If circumstances prevent compliance with this 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
Notice of Readoption
Nuclear Plant Decommissioning Cost and Trust Fund Review

Readoption: N.J.A.C. 14:5A


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

BPU Docket Number: EX15050630.

Effective Date: August 19, 2015.

New Expiration Date: August 19, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 14:5A will expire on October 7, 2015. The rules provide procedures to ensure that there will be adequate funds for the proper decommissioning of nuclear power plants owned by New Jersey utilities. Specifically, the rules require the filing of periodic update reports regarding trust funds held by a utility to cover decommissioning costs.

A summary of the subchapters of N.J.A.C. 14:5A follows:

N.J.A.C. 14:5A-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 14:5A-1.2 provides definitions for key words and terms used in the chapter.

N.J.A.C. 14:5A-2.1 sets forth the requirement that New Jersey electric utilities with an ownership interest in a nuclear plant file a Decommissioning Cost Update with the Board. In addition, the section sets forth details regarding the timing and format of the filing.

N.J.A.C. 14:5A-2.2 sets forth the elements that must be included in the Decommissioning Cost Update.

N.J.A.C. 14:5A-2.3 allows affected electric utilities to jointly file certain information in order to avoid the filing of duplicative information.


N.J.A.C. 14:5A-3.2 provides for a public comment period on the Update, and for formal Board review in certain cases.

N.J.A.C. 14:5A-3.3 provides for party status for the Department of Environmental Protection (DEP) and the Division of Rate Counsel (Rate Counsel), and for a motion for intervention by others.

N.J.A.C. 14:5A-3.4 provides for discovery in any formal proceeding initiated under this chapter.

N.J.A.C. 14:5A-3.5 provides for a public hearing as part of a formal proceeding, and evidentiary hearings as determined necessary by the Board.

N.J.A.C. 14:5A-3.6 requires findings by the Board after any hearings.

N.J.A.C. 14:5A-4.1 sets forth requirements for the hiring of investment managers and trustees for decommissioning trust funds.

N.J.A.C. 14:5A-4.2 requires the filing of annual reports regarding the decommissioning trust fund.

N.J.A.C. 14:5A-4.3 requires the distribution of the annual decommissioning trust fund reports to DEP, Rate Counsel, and the municipality in which the plant is located.

The Board of Public Utilities has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.