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OFFICE OF ADMINISTRATIVE LAW**Notice of Readoption
Special Hearing Rules
Board of Public Utilities****Readoption: N.J.A.C. 1:14**

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Board of Public Utilities (Board) were scheduled to expire on May 20, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

Subchapter 1 sets forth the applicability of these rules.

Subchapter 2 defines judge as an administrative law judge, the Board, or a single Commissioner of the Board presiding over a contested case and defines public hearing as a hearing at which the public expresses its view and comments on a subject, rather than a hearing, which is evidentiary.

Subchapter 5 states that the Board may be represented by a deputy attorney general or a non-lawyer agency employee.

Subchapter 8 states that the Board must indicate in the transmittal whether it will be a party to the case and whether it will be represented by an employee or a deputy attorney general.

Subchapter 9 provides that a judge may require a party to give notice of the hearing to persons who may be affected by it and may designate the type of notice, including publication and posting. Petitioners who file for authority to exercise the power of eminent domain shall give each known respondent at least 20 days notice of the hearing. The judge may require the utility to secure an appropriate location for a public hearing and to give notice of such hearing. Unless the judge directs otherwise, public hearings are conducted in the evening or at some other time convenient to interested parties. Persons opposing or supporting petitions may testify at public hearings, subject to cross-examination. These individuals will not be noticed of any subsequent hearing unless they qualify as a participant or intervenor.

Subchapter 10 permits depositions of a witness whose testimony is prefiled on written notice in a ratemaking proceeding.

Subchapter 14 provides that the judge may require parties to prefile direct testimony in writing and under oath. Cross-examination may be restricted if its purpose is primarily for discovery.

In cases involving orders to show cause or investigative orders, respondents must obtain an original and copy of the transcript, and must provide the judge with a copy within 15 working days of the hearing date. In other cases, the petitioner must obtain the hearing transcript and provide a copy to the judge.

When pre-filed testimony is admitted, the witness shall appear at the hearing and be available for cross-examination. A witness may be precluded from testifying when the written testimony has not been filed in accordance with the schedule.

The Board must decide whether to grant a request for interlocutory review by the later of 10 days after receipt of the request or at its next regularly scheduled open meeting after expiration of the 10-day period. To ensure that the Board has an opportunity to render a decision when it has determined that interlocutory review is appropriate, the Board shall issue a decision, order, or other disposition no later than the next scheduled Board meeting on or after the 20th day following the determination to permit interlocutory review. The Board may extend that

timeframe for good cause shown for an additional 20 days if both the Board and the Director of the OAL concur.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

OFFICE OF ADMINISTRATIVE LAW**Notice of Readoption
Special Hearing Rules
Casino Control Commission****Readoption: N.J.A.C. 1:19**

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Casino Control Commission (Commission) and for cases heard at the Commission were scheduled to expire on July 31, 2022. The summary of the rules proposed for readoption follows:

N.J.A.C. 1:19-1.1 establishes the applicability of this chapter to contested case hearings arising under the Casino Control Act.

N.J.A.C. 1:19-2.1 defines initial decision as the recommended findings of fact and conclusions of law issued by an administrative law judge, Commission member, or hearing officer appointed pursuant to N.J.S.A. 5:12-107.a.

Subchapters 3 and 4 are reserved.

N.J.A.C. 1:19-5.1 sets forth a procedure to be followed by an attorney who intends to represent more than one party in the same or a substantially related matter. This procedure has been successfully utilized by the Commission for some time. The procedure provides for the filing of a petition with the Commission, or the OAL, if the matter has been transmitted for hearing, to ensure that the attorney does not represent parties where a conflict of interest exists. A decision on the petition will be issued by the Commission's chair, or the chair's designee, and may be appealed to the full Commission, or may be issued by an administrative law judge and appealed to the OAL Director.

Subchapter 6 is reserved.

N.J.A.C. 1:19-7.1 provides for the service of notices. Notices must be served at least 10 days before the hearing.

Subchapter 8 is reserved.

N.J.A.C. 1:19-9.1 provides that where an applicant or respondent is being prosecuted for an offense listed at N.J.S.A. 5:12-86.c, the case shall be placed on the inactive list at that individual's request. Additionally, the subchapter sets forth the obligations of an applicant or respondent whose case has been placed on the inactive list and the consequences for failure to fulfill those obligations, including that the Commission may take final action. N.J.A.C. 1:19-9.2 governs adjournments.

N.J.A.C. 1:19-10.1 specifies mandatory discovery requirements, including the obligation to provide copies of any documents that are intended to be introduced at the hearing, the list of names and addresses of all witnesses intended to be called at the hearing, the qualifications of each anticipated expert witness, and a copy of any reports prepared by the witness or a summary of the testimony that the witness will offer.

Subchapter 11 and 12 are reserved.

In cases retained by the Commission, N.J.A.C. 1:19-13.1 permits the chair to appoint a representative to conduct a prehearing conference and issue a prehearing memorandum.

N.J.A.C. 1:19-14.1 provides specific provisions concerning contested case hearings.