



Agenda Date: 7/29/16  
Agenda Item: 9A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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MISCELLANEOUS

IN THE MATTER OF THE BOARD'S E-FILING PROGRAM	)	ORDER WAIVING
	)	PROVISIONS OF <u>N.J.A.C.</u>
	)	14:4-2, <u>N.J.A.C.</u> 14:17-4.2(a)
	)	<u>N.J.A.C.</u> 14:1-1.6(c) and
	)	<u>N.J.A.C.</u> 14:17-1.6(d)
	)	
	)	DOCKET NO. AX16020100

**Party of Record:**

**Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel**

**BY THE BOARD:**

By this Order, the Board of Public Utilities ("Board") considers the waiver of N.J.A.C. 14:4-2(a) and N.J.A.C. 14:17-4.2(a) requiring the submission of an original and 10 conformed copies of each pleading(s) if the party chooses to electronically file ("e-file") and N.J.A.C. 14:1-1.6(c) and N.J.A.C. 14:17-1.6(d) prohibiting the submission of an electronic document from being entered into the record of a formal proceeding. This waiver is limited to the filing of a petition, tariff filings, and other such documents by a public utility company that pays an annual assessment pursuant to N.J.S.A. 48:2-59 or a cable company that pays an annual assessment pursuant to N.J.S.A. 48:5A-32 ("Assessed Entity").

**BACKGROUND**

In June 2015, the Board's Information Technology Staff ("staff") contacted multiple companies notifying them of the launching of the Board's e-Filing initiative and offering the opportunity to participate in a pilot testing period.<sup>1</sup> Pilot program participants ("participants") were able to provide documents pertaining to rate cases, tariff revisions, operating rights, financings and

<sup>1</sup> Companies participating in the pilot program included: Public Service Electric and Gas, Jersey Central Power and Light, Atlantic City Electric, Rockland Electric, Verizon, South Jersey Gas, New Jersey Natural Gas, Elizabethtown Gas, United Water, Middlesex Water, Comcast, Barr Tell USA, Inc, CLM Telcom, NextGen Communications, and Butler Electric.

mergers. Each participant was required to electronically upload document(s) through the Board's Infoshare system with a MyNewJersey Portal ID. In addition to the electronic filings, the participants were required to file two clearly marked courtesy copies sent by regular mail to the Board's Office of Case Management. When the pilot program ended in August 2015, staff deemed the performance of the Board's Information Technology system for e-filing a success and permitted the participants to continue filing electronically.

On March 8, 2016, a Secretary's Letter was issued stating that prior to implementing the Board's e-Filing system, the Board must first undertake a review of what, if any, rules must be amended or waived. Therefore, any party that has previously participated in the e-filing pilot program may continue to do so. Any party that wished to participate in the pilot program was directed to contact the Board Secretary's office for further information.

The Board has reviewed the status of the pilot program and now considers whether a limited waiver of the provisions of N.J.A.C. 14:4-2(a), N.J.A.C. 14:17-4.2(a); N.J.A.C. 14:1-1.6(c) and N.J.A.C. 14:17-1.6(d) are appropriate.

## **DISCUSSION AND FINDINGS**

In considering whether to waive N.J.A.C. 14:4-2(a), N.J.A.C. 14:17-4.2(a), N.J.A.C. 14:1-1.6(c), and N.J.A.C. 14:17-1.6(d) the Board applies the two-pronged test set forth at N.J.A.C. 14:1-1.2(b)(1): first, whether the request is in accord with the general purposes and intent of the rules; and second, whether full compliance with the rules would adversely affect ratepayers, the utility, or the public interest.

To determine the general purpose and intent of its rules, the Board looks to the policy underlying the rule(s) in question. The purpose of N.J.A.C. 14:1-4.2(a) and N.J.A.C. 14:17-4.2(a) is to provide the Board with a sufficient number of copies of pleadings to conduct a review of the underlying petition. The successful pilot program has demonstrated that e-filing of certain pleadings reduces the necessity to file as many hard copy documents as these rules now require. As such, the prohibition against electronic filing set forth in N.J.A.C. 14:1-1.6(c) and N.J.A.C. 14:17-1.6(d) may be waived under these circumstances. Therefore, the Board **FINDS** that these waivers comply with the general purposes and intent of these rules.

The Board also considers whether full compliance with the rule would adversely affect the interest of the public. See N.J.A.C. 14:1-1.2(b)(1). The pilot program has provided ample demonstration that the enforcement of N.J.A.C. 14:4-2(a), N.J.A.C. 14:17-4.2(a), N.J.A.C. 14:1-1.6(c), and N.J.A.C. 14:17-1.6(d) is not necessary with the institution of a limited e-filing program affecting the public utilities and cable companies paying annual assessments. The Board believes that e-Filing will have a beneficial impact on those companies and the public by simplifying the filing procedures and **FINDS** that the rigid application of its rules would be contrary to the public interest under the facts presented to the Board in this matter. The Board **HEREBY FINDS** that approving the waiver of N.J.A.C. 14:4-2(a), N.J.A.C. 14:17-4.2(a), N.J.A.C. 14:1-1.6(c), and N.J.A.C. 14:17-1.6(d) under the circumstances described below will further the public interest.

Therefore, based on the above, the Board **HEREBY WAIVES** the requirements of N.J.A.C. 14:4-2(a), and N.J.A.C. 14:17-4.2(a) requiring an original and ten (10) conformed copies; and the provisions of N.J.A.C. 14:1-1.6(c) and N.J.A.C. 14:17-1.6(d), prohibiting the submission of an electronic document from being entered into the record of a formal proceeding, by an Assessed Entity. The Board **HEREBY ORDERS** that Assessed Entities may choose to e-file a petition, tariff filings, and other such affirmative documents filed by an Assessed Entity subject to the following requirements:

1. This waiver is limited to documents in affirmative proceedings filed by an Assessed Entity and specifically excludes answers to petitions and other responsive documents filed by an Assessed Entity;
2. The Assessed Entity must notify the Board Secretary in writing that it will be filing its documents electronically through the Board's Infoshare system with a MyNewJersey Portal ID. The Assessed Entity must also notice the Board Secretary in writing of any change in its filing practice;
3. The Assessed Entity must file three (3) conformed copies of each document which must be received by the Board within two business days of the electronic filing; and
4. The document shall be considered filed with the Board once the Assessed entity receives an electronic confirmation of the filing from the Board's Office of Case Management. This electronic confirmation shall not be forwarded to the Assessed entity unless all of these requirements have been met.

The Board **FURTHER ORDERS** that any documents submitted through the e-filing system which do not conform to the above requirements will not be considered filed with the Board.

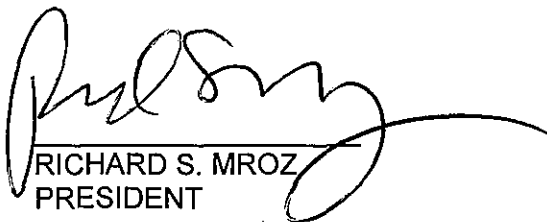
The Board also **FINDS** that this waiver does not affect the parties' requirement to serve a hard copy of all pleadings to the Division of Rate Counsel pursuant to N.J.A.C. 14:1-5.1(b)(2) or any other filing or service requirements set forth in the Board's rules at N.J.A.C. 14:1 et seq. or N.J.A.C. 14:17 et seq.

The Board notes that fully implementing the e-filing process, including the extension of e-filing to other parties, will require a complete review of the Board's rules at N.J.A.C. 14:1 et seq. Therefore, the Board **DIRECTS** staff to convene a stakeholder process to seek input from all interested parties in drafting language to amend N.J.A.C. 14:1 et seq. and N.J.A.C. 14:17 et seq. to fully implement an e-filing program.

This Order shall be effective on August 8, 2016.

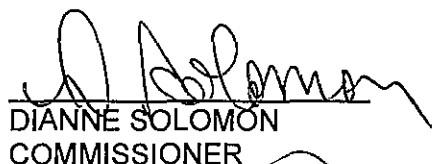
DATED: 7/29/16

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

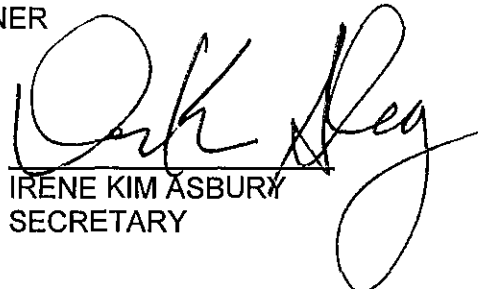
  
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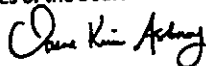
  
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ATTEST:

  
IRENE KIM ASBURY  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities



IN THE MATTER OF THE BOARD'S E-FILING PROGRAM – ORDER WAIVING PROVISIONS  
OF N.J.A.C. 14:4-2, N.J.A.C. 14:17-4.2(A), N.J.A.C. 14:1-1.6(C) AND N.J.A.C. 14:17-1.6(D).

DOCKET NO. AX16020100

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