

- i. Continued administration of mathematics and English language arts in grades three, four, and five, and of science in grade [four] **five**.
 2.-3. (No change.)
 (d)-(e) (No change.)

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Tariff Filings or Petitions Which Propose Increases in Charges to Customers

Reproposed Amendment: N.J.A.C. 14:1-5.12

Authorized By: New Jersey Board of Public Utilities, Richard S.

Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, Dianne Solomon, and Upendra Chivukula, Commissioners.

Authority: N.J.S.A. 48:2-13.

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

BPU Docket Number: AX1750469.

Proposal Number: PRN 2018-018.

Comments may be submitted through April 6, 2018, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.nj.gov or on paper to:

Irene Kim Asbury, Secretary
 New Jersey Board of Public Utilities
 ATTN: BPU Docket Number: AX1750469
 44 S. Clinton Ave., 3rd Floor, Suite 314
 PO Box 350
 Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is proposing an amendment to N.J.A.C. 14:1-5.12 that will require a utility that submits a tariff filing or petition that proposes increases in charges to customers pursuant to this rule to include a consolidated tax adjustment (CTA) analysis with supporting information and documents as part of the filing requirements in a base rate case. The amendment adjusts the scope of a CTA analysis by: (1) requiring that it shall be for five consecutive tax years including the complete tax year within the utility's proposed test year; (2) the calculated CTA shall be allocated so that the rate base may be reduced by up to 25 percent of the full CTA; and (3) the transmission portion of an electric distribution company's income shall not be included in the calculation of CTA.

The Board has required a CTA analysis to be a component in base rate cases for decades. By order dated January 23, 2013, the Board directed Board staff to convene all interested parties to participate in a proceeding to review issues related to the CTA. Staff solicited and received information from interested parties through multiple notices to comment on issues related to CTA policy and non-confidential comments received were posted publicly on the Board's website. Based on the comments received, staff recommended to the Board that the current CTA policy should remain in effect, except in three ways: 1) limit the time period for a CTA calculation to the petitioner's five consecutive tax years from the beginning of the test year; 2) establish a savings allocation that would allow 75 percent of the calculated tax savings to be retained by the company and 25 percent of the calculated savings to be allocated to the ratepayers; and 3) establish that transmission assets of electric distribution companies shall not be included in CTA calculations. Staff notified the Board of its intention to distribute the proposed recommendations to all interested parties. The notice containing staff's proposal was published in the New Jersey Register on July 7, 2014, at 46 N.J.R. 1657(a). Additionally, the notice of proposal was distributed to all interested parties and posted on the Board's website with a request that written comments on the proposed modification of the CTA policy be submitted on or before Monday,

August 18, 2014. After receiving written comments in response to the notice of proposal, the Board determined that, based on the complete record, there is a sound policy argument for continuing the CTA and the Board concurred with staff's proposed modifications. On December 17, 2014, the Board entered an order modifying the Board's current CTA policy to include staff's recommended changes, which was subsequently overturned by the New Jersey Appellate Division. This proposed amendment is in furtherance of implementing the Board's CTA modifications in accordance with formal rulemaking as required by the Appellate Division in its decision. The purpose of a CTA is to ensure that the ratepayers who pay a utility's Federal income tax expense share in the tax benefits that members of the consolidated tax filing receive.

Proposed new N.J.A.C. 14:1-5.12(a)11 establishes a filing requirement for petitioners to include all necessary information, documents, and analysis for the Board to determine an appropriate CTA in a base rate case. The new paragraph also adjusts some parameters to be followed when calculating a CTA.

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

Social Impact

The proposed new paragraph will have a non-appreciable social impact as the proposed amendment involves utility rate-making policy.

Economic Impact

There may be an economic impact to utility rate payers and utilities as a result of this proposed amendment. The rule requires that utilities share with ratepayers a portion of any tax savings earned through a utility's consolidated tax filing. The vast majority of states have abolished the CTA. The amendment also provides applicable utilities with a five-year look back period, a sharing allocation of the tax savings, and the elimination of transmission income from the CTA calculation.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendment is not proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

It is not anticipated that the proposed amendment will result in the creation of new jobs or the loss of existing jobs. The proposed amendment will not have an impact on any other sector of the economy of the State of New Jersey.

Agriculture Industry Impact

The Board does not expect any agriculture industry impact from the proposed amendment.

Regulatory Flexibility Statement

The proposed amendment will not impose any recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. With regard to utilities that qualify as small businesses under the Act, this amendment simply provides clarity to an existing statutory right that may be exercised by utilities voluntarily and, as such, will not impose any requirements on small businesses.

Housing Affordability Impact Analysis

The proposed amendment will have no impact on the affordability of housing in New Jersey and will not evoke a change in the average costs associated with housing because the proposed amendment pertains to CTA calculations.

Smart Growth Development Impact Analysis

The proposed amendment should not have any significant impact on smart growth and will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed amendment pertains to CTA calculations.

Full text of the proposal follows (additions indicated in boldface thus):

SUBCHAPTER 5. PETITIONS

14:1-5.12 Tariff filings or petitions which propose increases in charges to customers

(a) Tariff filings or petitions for the purpose of making effective or making revisions, changes, or alterations of existing tariffs which propose to increase any rate, fare, toll, rental, or charge or so to alter any classification, practice, rule, or regulation as to result in such an increase, other than filings to effectuate the operation of an existing fuel or raw materials adjustment clause, shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, contain all applicable information and data set forth in N.J.A.C. 14:1-5.11 and, in addition, shall contain the following information and financial statements which shall be prepared in accordance with the applicable Uniform System of Accounts:

1.-10. (No change.)

11. If a company is part of a family of companies that files a consolidated Federal income tax return, that company shall include in its petition a consolidated tax adjustment (CTA) calculation using the rate base method, which allows the parent company to keep certain tax savings, while requiring the petitioner to reflect the savings by reducing the rate base upon which the utility's return is determined. The CTA calculation must include all supporting information and documents necessary for the Board to determine and implement an appropriate CTA calculation pursuant to this section. A CTA provides a mechanism that the Board will utilize in rate cases, so that ratepayers should share a specified portion of the tax savings achieved from the filing of a consolidated tax return. Required information and supporting documents include, but are not limited to, a schedule showing each affiliate company's taxable income/loss by year, an indication whether the affiliate is a regulated utility company or not, the statutory Federal income tax requirement for each year, if any, and the alternative minimum tax requirement for each year, if any. The review period for the CTA calculation shall be for five consecutive tax years, including the complete tax year within the utility's proposed test year. The calculated CTA shall be allocated, so that the rate base may be reduced by up to 25 percent of the full CTA. The transmission portion of an electric distribution company's income shall not be included in the calculation of CTA.

(b)-(e) (No change.)

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Transportation Network Companies

Proposed New Rules: N.J.A.C. 13:21-26

Authorized By: Raymond P. Martinez, Chairman and Chief Administrator, Motor Vehicle Commission.

Authority: N.J.S.A. 39:2A-28 and 39:5H-27.

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

Proposal Number: PRN 2018-010.

Submit written comments by April 6, 2018, to:

Kate Tasch, APO
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 160
Trenton, New Jersey 08666-0160
or via e-mail to rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5, since this notice is not listed in the agency rulemaking calendar and the public comment period for the notice will be 60 days.

The purpose of the proposed new rules is to set forth standards for Transportation Network Company (TNC) applicants to apply to the New Jersey Motor Vehicle Commission (Commission) to operate in the State pursuant to N.J.S.A. 39:5H-1 et seq., including standards for granting permits, as well as denying, suspending, or revoking permits, and including the issuance of fines. Additionally, the new rules set forth standards for investigations, inspections, and review of TNC records by the Commission.

The operation of TNCs in the State is subject to the Transportation Network Company Safety and Regulatory Act, N.J.S.A. 39:5H-1 (Act). While the Act sets forth the legal requirements for the operation of TNCs in the State, including recordkeeping requirements, the proposed new rules are authorized by the Act and are required to clarify the particulars of applying for the required permit to operate, and the Commission's oversight thereof.

Briefly, the Act sets forth TNC-related requirements and restrictions, including those regarding for-hire status, the issuance and revocation of permits, fees for permits and renewals, the appointment and maintenance of an agent for service of process in the State, a memorandum of understanding between a TNC and the Department of Transportation (DOT), collection of fares, providing riders with pictures of drivers and license plate numbers of the personal vehicles to be used for the prearranged ride, electronic receipts, automobile insurance required to be maintained by the TNC and/or TNC drivers, disclosures by TNCs to their drivers regarding automobile insurance, an insurance company option to exclude coverage to drivers under private passenger automobile policies, maintenance by a TNC of a digital network communication system, a TNC's adoption and disclosure of a zero tolerance policy on use of controlled dangerous substances and alcohol, a TNC's adoption and disclosure of a policy of non-discrimination, the submission of applications to TNCs by drivers, criminal background checks for drivers, driving record checks for drivers applying to TNCs, Social Security number traces for drivers applying to TNCs, the basis for prohibition on an applicant or driver's access to the TNC's digital network, prevention of access to the TNC's digital network by unauthorized drivers, personal vehicle inspection criteria, maintenance of electronic information by drivers and accessibility of same to law enforcement officers, a prohibition on drivers soliciting non-prearranged rides, a TNC's requirement to maintain records and make them available for inspection and investigation, and the exclusivity of the statute and any rules promulgated in relation thereto as governing TNCs and their drivers in the State.

The proposed new rules are designed to expedite and clarify the processes of applying for TNC permits, and the investigation and inspection of TNC records by the Commission.

New N.J.A.C. 13:21-26.1 sets forth definitions of words and terms used in the rules, including: "Commission," "identifying marker," "operate/operating in the State," "operation of a transportation network company/TNC," "permit holder," "State," and "transportation network company applicant."

New N.J.A.C. 13:21-26.2 sets forth the permit application requirements, including: forms to be used, submission of a tax identification number and State sales tax certificate of authority, identification and certification of proposed authorized signatories on behalf of the TNC, identification of the TNC's corporate officers, board members, partners, or members, identification of all names under which the applicant conducts and intends to conduct business, proof of insurance, proof that the TNC is registered as a business in the State, written descriptions of the TNC's zero tolerance and non-discrimination policies, proof that the Attorney General has approved the TNC's proposed criminal history background process method, identification of the TNC's contact person for inspection, investigation, and review of