

48:2-32.5 to 32.7

LEGISLATIVE HISTORY CHECKLIST

NJSA: 48:2-32.5 to 48:2-32.7 (Public utilities - rates - hearings to be held in affected geographical area)

LAWS OF: 1983

CHAPTER: 454

Bill No: S1268

Sponsor(s): Dalton, Gregorio and Zane

Date Introduced: April 29, 1982

Committee: **Assembly:** Commerce and Industry

Senate: Transportation & Communications

Amended during passage: Yes Amendments denoted by asterisks according to Governor's recommendations

Date of Passage: **Assembly:** April 11, 1983 Re-enacted 12-15-83

Senate: November 29, 1982 Re-enacted 1-9-84

Date of Approval: January 12, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 1268

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1982

By Senators DALTON, GREGORIO and ZANE

Referred to Committee on Transportation and Communications

AN ACT concerning **public hearings and certain** public meetings of the Board of Public Utilities, and supplementing Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 ***[1.** The provisions of any other law, rule, regulation, or order
2 to the contrary notwithstanding, the board shall conduct all public
3 meetings held to review applications by gas and electric light, heat
4 and power corporations for increases, changes, or alterations in
5 their rate schedules or for approval of new facilities or expansions
6 of existing facilities which will result in subsequent applications
7 for increases, changes, or alterations in their rate schedules, in the
8 service area of the applicant. If more than one meeting is con-
9 ducted with respect to a single application, the board shall hold the
10 meetings in different locations and at different times to afford the
11 maximum number of ratepayers in the service area the opportunity
12 to attend. At each of the meetings, the board shall allocate a period
13 of time, not less than one hour, to receive and, if appropriate,
14 respond to comments and questions from the public.]*

15 *1. *For purposes of this act:*

16 a. *“Geographic region” means one of the following regions of*
17 *the State: the southern region encompassing the counties of*
18 *Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,*
19 *Ocean and Salem; the central region encompassing the counties of*
20 *Hunterdon, Mercer, Middlesex, Monmouth and Somerset; and the*
21 *northern region encompassing those counties remaining in the*
22 *State.*

23 b. *“Intervenor” means any person permitted to intervene by*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted October 18, 1982.

**—Assembly committee amendments adopted March 3, 1983.

24 the Board of Public Utilities or its presiding officer in any
25 proceeding.

26 c. "Objector" means any person who objects on the grounds of
27 public or private interest to the approval, determination, consent,
28 certification or authorization of any petition pending before the
29 board.

30 d. "Petitioner" means any person who files a petition, or on
31 whose behalf a petition is made, for approval, determination, con-
32 sent, certification or authorization of the board.

33 e. "Respondent" means any person subject to the jurisdiction
34 of the board to whom the board issues notice instituting a pro-
35 ceeding or investigation of the board or ordered before any pend-
36 ing proceeding of the board or against whom a petition is filed.

37 f. "Service area" means the entire geographic area over which
38 a gas or electric light, heat or power company has a privilege or
39 franchise granted by the State or by any political subdivision of
40 the State, in accordance with the provisions of R. S. 48:2-13 and
41 R. S. 48:2-14.

42 g. "Significant increase" means an increase other than one
43 resulting from a levelized energy adjustment clause or raw
44 materials adjustment clause.

45 **[h. "Substantial expansion" means the installation of addi-
46 tional generating facilities which will increase the installed capacity
47 of an existing facility by 25%, or an approximately equivalent
48 standard determined by the board.]**

1 2. **a.** The provisions of any other law, rule, regulation or
2 order to the contrary notwithstanding, the board, or the Office of
3 Administrative Law acting pursuant to subsection (c) of section 10
4 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C.
5 52:14B-10(c)), shall conduct as many of its public hearings held
6 to review applications by gas and electric light, heat and power
7 companies other than municipally owned companies for significant
8 increases, changes, or alterations in their rate schedules **[or for
9 approval of new facilities or substantial expansions of existing
10 facilities which will result in subsequent applications for signifi-
11 cant increases, changes, or alterations in their rate schedules]**, in
12 the service area of the applicant as it deems necessary or appro-
13 priate to afford the affected ratepayers the opportunity to monitor
14 the decision-making process by which the rates are set. **[There
15 shall, however, be at least two public hearings held in the service
16 area with respect to an application under this section. One shall be
17 a hearing in which petitioners, respondents, and intervenors are
18 parties. At the other hearing statements by objectors shall be
19 permitted. If substantial portions of the service area are located

20 *in more than one geographic region of the State, then at least*
 21 *two public hearings as specified in this section shall be held in*
 22 *the service area located in each of those geographic regions.】***

23 ***At least two public hearings shall be held in the service area*
 24 *with respect to any application except that if substantial portions*
 25 *of the service area are located in more than one geographic region*
 26 *of the State, then at least two public hearings shall be held in the*
 27 *service area located in each of those geographic regions, under*
 28 *the terms and conditions specified in this subsection. One of the*
 29 *public hearings held in the service area, or one of the hearings*
 30 *held in each geographic area, as the case may be, shall be a hearing*
 31 *in which petitioners, respondents, and intervenors are parties.*
 32 *At the second hearing or hearings required by the provisions of*
 33 *this subsection statements by objectors shall be permitted. All*
 34 *public hearings held pursuant to the provisions of this subsection*
 35 *shall be held at places which are easily accessible to the public*
 36 *with at least one such hearing held during evening hours.***

37 ***b.** On the **【last】** day that the **【final】** public hearing*
 38 ***【process】** is to be **【concluded】** held in connection with*
 39 *any application*, after which the recommended report and deci-*
 40 *sion is to be filed in accordance with subsection (c) of section 10 of*
 41 *the “Administrative Procedure Act,” P. L. 1968, c. 410 (C.*
 42 *52:14B-10(c)), the administrative law judge or the board, as the*
 43 *case may be, may require the parties to the proceedings to present*
 44 *a summary statement of their cases or defenses. After such a*
 45 *presentation, statements by the objectors shall be permitted in*
 46 *order to accord persons not parties to the proceedings an oppor-*
 47 *tunity to participate in the proceedings. If no such presentation is*
 48 *made, objector’s statements shall be permitted in any event before*
 49 *the conclusion of the hearing. The **【last day of the】** **【final】***
 50 *public hearing shall be held in the service area.*

51 ***【All public hearings in the service area shall be held at places***
 52 ***easily accessible to the public with at least one such hearing held***
 53 ***during evening hours.】*****

1 *3. The board shall adopt a final decision or order with respect*
 2 *to an application under section 2 of this act at a public meeting,*
 3 *in accordance with subsection (d) of section 10 of the “Administra-*
 4 *tive Procedure Act,” P. L. 1968, c. 410 (C. 5B:14B-10(d)). Each*
 5 *member of the board shall individually state the reason or reasons*
 6 *for his decision on the application either at the public meeting or*
 7 *in a written document, which document shall be available to the*
 8 *public on request. This public meeting shall be held in the service*
 9 *area.**

【2.】 **4.* This act shall take effect immediately.*

SENATE, No. 1268

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1982

By Senators DALTON, GREGORIO and ZANE

Referred to Committee on Transportation and Communications

AN ACT concerning public meetings of the Board of Public Utilities,
and supplementing Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The provisions of any other law, rule, regulation, or order to
2 the contrary notwithstanding, the board shall conduct all public
3 meetings held to review applications by gas and electric light, heat
4 and power corporations for increases, changes, or alterations in
5 their rate schedules or for approval of new facilities or expansions
6 of existing facilities which will result in subsequent applications
7 for increases, changes, or alterations in their rate schedules, in the
8 service area of the applicant. If more than one meeting is con-
9 ducted with respect to a single application, the board shall hold the
10 meetings in different locations and at different times to afford the
11 maximum number of ratepayers in the service area the opportunity
12 to attend. At each of the meetings, the board shall allocate a period
13 of time, not less than one hour, to receive and, if appropriate,
14 respond to comments and questions from the public.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to encourage maximum public attendance at public utility hearings. The requirements established in this bill will afford gas and electric customers an opportunity to become knowledgeable participants in the decisions-making process by which their rates are set and thereby reduce the distrust, suspicion, and mystery that now cloud the process.

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

SENATE, No. 1268

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MARCH 3, 1983

This bill, as amended by the Assembly Commerce and Industry Committee, would require the Board of Public Utilities or the Office of Administrative Law, as appropriate, to conduct public hearings relative to applications by public utilities under its jurisdiction (other than municipally owned companies) within the service area of the applicant. This provision would apply in the case of applications which would result in significant increases, changes, or alterations in their rate schedules or for approval of new facilities. At least two public hearings in the service area would be required to be held. If substantial portions of any applying utility's service area are located in more than one geographic region, then at least two public hearings would be required to be held in the service area located in each of the geographic regions. One of these would be a hearing in which petitioners, respondents, and intervenors are parties. At the second, statements from objectors would be heard. Of the public hearings held in the service areas, at least one would be required to be held in the evening. The Assembly Commerce and Industry Committee has deleted the provisions of the bill which provide for hearings in the event substantial expansions of existing facilities are proposed which will result in subsequent applications for significant increases, changes or alterations in their rate schedules.

The bill further provides that on the final day that the public hearing process is to be concluded and the report is to be filed, the Board of Public Utilities or the administrative law judge, as appropriate, may require the parties to the proceedings to present a summary statement of their cases or defenses. After this proceeding, objectors would be permitted to participate. The last day of the public hearing would be required to be held in the service area.

The board's final decision or order would be required to be adopted at a public meeting. Each member of the board would be required to state the reason or reasons for his decision either at the public meeting or in a written document. The public meeting would be required to be held in the service area.

This bill is designed to permit greater access to the rate approval process by ratepayers by requiring public hearings to be held in a place accessible to the ratepayers in the geographic area, and at a time convenient to them. This will afford ratepayers the opportunity to monitor the decision making process by which the rates are set.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1268

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

The bill as amended provides that the Board of Public Utilities shall conduct public meetings to review applications by gas and electric light, heat and power corporations in the service area of the corporation. These applications concern changes or increases in rates, or new or expanded facilities which will result in application for changes or increases. Certain requirements are also imposed as to the locations and times of meetings and the time allotted for comments and questions from the public.

As amended, the bill provides that the board or the Office of Administrative Law shall determine the number of hearings to be held in the service area in order to afford ratepayers the opportunity to monitor the decision-making process. It is further stipulated, however, that there shall be at least two public hearings held in the service area with respect to an application for increases or changes in rates. One such hearing shall be a hearing at which petitioners, respondents, and intervenors are parties. At the other hearing statements by objectors shall be permitted. If the service area of the applicant is substantially located in more than one geographic region of the State, then at least two hearings shall be held in the service area so located in each of the geographic regions. On the last day of the public hearing process statements by objectors shall be permitted.

When the board makes its final decision or order, each member of the board shall individually state the reasons for his decision and the meeting shall be in the service area.

Other amendments exempt municipally owned companies from the requirements of the bill, define "significant increases", and are of a clarifying and technical nature.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

July 11, 1983

SENATE BILL NO. 1268 (2nd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 1268 (2nd OCR) with my recommendations for reconsideration.

The intent of this bill is to provide maximum opportunity for public participation in rate proceedings before the Board of Public Utilities. The bill requires that at least two public hearings be held in the service area of an electric or gas utility applying for a significant increase, change, or alteration in its rate schedule and that these hearings be held in places and times which are convenient for the public.

However, the bill also requires that the public meeting at which the Board of Public Utilities adopts its final decision with regard to such a rate application must be held in the service area of the utility. This provision would place an undue burden on the Board of Public Utilities and its staff and would not contribute to additional public participation in the ratemaking process.

In addition to the logistical problem of moving the Board and its staff around the State, it should be noted that the Board's decisions are quasi-judicial and should be rendered in a judicial atmosphere since they are often the subject of an appeal by a utility or by rate counsel. No public input is allowed at the meeting at which the Board renders its decision. The time for that participation is during the early public hearings which are held prior to decision making and which would be required to be held in the service area of the utility pursuant to Senate Bill No. 1268 (2nd OCR). Having the Board's final decisions rendered at public meetings in the service territory of the utilities would immensely complicate the Board's already difficult schedule, and would not meaningfully add to the public's opportunity to participate in the ratemaking process, which this bill otherwise ensures.

Therefore, I hereby return Senate Bill No. 1268 (2nd OCR), and recommend that it be amended as follows: