

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2611**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 17, 2020

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2611 with committee amendments.

This bill, as amended, would require the Board of Public Utilities (BPU) to establish and maintain an electronic public document search system on its website, and provide certain notice of its meetings and hold quarterly public comment meetings.

Specifically, the bill would require the BPU to establish, maintain, and update an electronic public document search system, through the BPU's Internet website, that allows users to obtain BPU proceeding documents and docket information online. The search system would reflect all filings and comments made to the BPU, in electronic or printed form, and provide for the managing and facilitating of public access to all filings, orders, notices, rulemakings, comments, or other BPU proceeding documents. The search system would also allow parties to electronically file these documents. The search system would be subject to the specific requirements set forth in subsection a. of section 2 of the bill. In developing the search system, the BPU would be required to implement technology in order to improve security, data accessibility, affordability, and performance, and to minimize the burden on pro se litigants.

The bill would also require the BPU to make available to the public on its public document search system advance notice of every public meeting conducted by the BPU at least five calendar days prior to the day of the meeting, unless a longer period of advance notice is required by law. This provision would apply to every public BPU meeting, regardless of the number of board members present. For every public meeting, the BPU would provide, in the advance notice of that public meeting, a description of any action that may be taken by the BPU under each listed agenda item in the notice.

In order to increase transparency and accountability, the bill would require the BPU to hold a public comment meeting at least once every three months in order to hear from the public and interested stakeholders on policy matters before the BPU and matters as the Legislature may from time to time designate. The public comment meeting would be required to meet all requirements of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6

et seq.) and allow for oral or written statements by: (1) any member of the public on any topic germane to the interests of the BPU; and (2) any party to a proceeding or party represented by counsel or a government affairs agent, on specific topics noticed by the BPU. The BPU would be required to adopt written policies governing the conduct of public comment meetings which would maximize public engagement, provide annual notice of the scheduled dates for public comment meetings, allow for post-meeting written comments, and reasonably minimize the inadvertent discussion of pending or impending contested matters. Under the bill, members of the BPU would be permitted to engage in a discussion with an interested party on policy matters, and those discussions would not be considered prohibited ex parte communications.

The bill would amend existing law to require that every written order issued by the BPU be served upon the person or public utility affected thereby within seven calendar days from its filing, instead of ten days. The bill would also require that every written order be posted on the BPU's public document search system.

The amendments to the bill would:

(1) require the BPU to establish an "electronic public document search system," rather than an "access service," and change the requirements for the search system;

(2) require that the search system allow parties to electronically file documents;

(3) provide that the BPU may take longer than seven days to publish a document on the search system if there is an emergency, or in order to address confidentiality, other privacy claims, or digitization of non-electronic records;

(4) provide that information that is prohibited from disclosure by law or BPU order is exempt from inclusion in the search system;

(5) require the BPU to encourage the filing of documents in text-searchable and machine-readable formats;

(6) require the BPU to provide access to all digital audio and visual files on its website, and to explore the technical and financial practicality of including its recordings on the search system;

(7) remove the requirement that the BPU not impose, to the extent practicable, a disproportionate impact on pro se litigants;

(8) require that the BPU provide advance notice of every public meeting conducted by the BPU five calendar days prior to the day of the meeting, rather than seven days;

(9) remove language that would have allowed the BPU to provide shorter notice of a meeting during an emergency;

(10) provide that nothing in the bill would prohibit the BPU from updating a meeting agenda or adding or removing an agenda item, and providing an updated agenda within the five day period;

(11) remove the requirement that the BPU set aside a portion of each public meeting to allow members of the public to comment on the subject matter of the meeting;

(12) provide that members of the BPU may engage in discussions with interested parties on policy matters, as defined in the bill, and that those discussions are not considered prohibited ex parte communications;

(13) require the BPU to hold quarterly public comment meetings in order to hear from the public and interested stakeholders on policy matters before the BPU and matters as the Legislature may from time to time designate;

(14) require that public comment meetings meet the requirements of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and allow for oral or written statements by members of the public and any party to a proceeding or party represented by counsel or a government affairs agent;

(15) require the BPU to adopt written policies to govern the conduct of public comment meetings;

(16) remove a requirement that the BPU publish any written order, whether in draft or final form, prepared for consideration by the BPU seven calendar days prior to the day of the meeting;

(17) make technical corrections to the bill.