

shall be maintained by the organized police department having custody and control of the approved instrument.

TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION Procedure for Claims of Destructive Competition Adopted New Rules: N.J.A.C. 16:74

Proposed: January 21, 2025, at 57 N.J.R. 175(a).

Adopted: September 19, 2025, by New Jersey Transit Corporation,

Kris Kolluri, President and Chief Executive Officer.

Filed: September 19, 2025, as R.2025 d.122, **without change**.

Authority: N.J.S.A. 27:25-2.a; 27:25-5.e, h, and k; and 27:25-7.b.

Effective Date: October 20, 2025.

Expiration Date: October 20, 2032.

Summary of Public Comment and Agency Response:

The comment period officially ended on March 22, 2025. **There were no comments received during the comment period.**

Federal Standards Statement

There are no Federal standards that apply to these previously expired rules adopted herein as new rules and, therefore, no Federal standards analysis is required.

Full text of the adopted new rules follows:

CHAPTER 74

PROCEDURE FOR CLAIMS OF DESTRUCTIVE COMPETITION

SUBCHAPTER 1. GENERAL PROVISIONS

16:74-1.1 Purpose

(a) The New Jersey Transit Corporation (NJ TRANSIT) was established by the New Jersey Public Transportation Act of 1979 (Act), N.J.S.A. 27:25-1 et seq., as the instrumentality of the State of New Jersey to carry out the State's responsibility to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the legislative findings set forth in the Act is that, in the provision of public transportation services, it is desirable to encourage to the maximum extent feasible, the participation of private enterprise and to avoid destructive competition. N.J.S.A. 27:25-7.b requires NJ TRANSIT to establish rules and regulations for hearings before the Board on claims by private carriers, providing motorbus regular route service, that the actions of NJ Transit caused destructive competition.

(b) Certain mass transit services or service improvements by NJ TRANSIT are excluded from the scope of these rules as they are, as a matter of law, in the public interest and have been authorized for funding, construction, and implementation by Congress and/or the New Jersey State Legislature. (See N.J.A.C. 16:74-2.4(b).) Consistent with various legislative procedures and enactments by Congress and the President of the United States and/or by the Legislature and Governor of the State of New Jersey, the implementation and operation of any mass transit service or service improvements on certain identified Federal or State mass transit projects that are specified in this chapter are excluded from the ambit of this chapter.

16:74-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the New Jersey Public Transportation Act of 1979, N.J.S.A. 27:25-1 et seq.

"Actions by NJ TRANSIT" means the operation of equipment or facilities by NJ TRANSIT, its subsidiaries, or other carriers contracting with NJ TRANSIT pursuant to Section 6 of the Act to the extent that such operation by carriers is within the control of NJ TRANSIT.

"Board" means the Board of Directors of NJ TRANSIT.

"Carrier" means any individual, partnership, association, corporation, limited liability company, joint stock company, trustee or receiver, or any other private entity operating or controlling regular route motorbus service on established routes within the State or between points in this State and points in other states.

"Equipment or facilities" means and includes, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, ferries and ferry facilities, including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, ramps and other necessary land-side improvements, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

"Established routes" means the intrastate and interstate motorbus regular route service of the carrier authorized by the Office of Regulatory Affairs of the New Jersey Motor Vehicle Commission, the Federal Motor Carrier Safety Administration, a municipality, or any other regulatory body.

"Ferry passenger service" shall mean any regular service that involves the carriage of persons for compensation or hire by waterborne craft in this State or between points in this State and points in other states.

"Motorbus regular route service" means the operation of any motorbus or motorbuses on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State, or between points in this State and points in other states.

"NJ TRANSIT" means the New Jersey Transit Corporation.

"President and CEO" means the President and CEO of NJ TRANSIT, or his or her designee.

"Rail passenger service" means and includes the operation of a railroad, subway, street, traction, or electric railway for the purpose of carrying passengers in this State or between points in this State and points in other states.

SUBCHAPTER 2. PROCEDURES

16:74-2.1 Filing of claims

(a) All claims must be filed, in writing, with NJ TRANSIT's President and CEO, One Penn Plaza East, Newark, New Jersey 07105-2246.

(b) Claims may be filed only by private carriers authorized by New Jersey Motor Vehicle Commission, the United States Department of Transportation, a municipality, or any other duly authorized regulatory body to provide regular route service.

(c) Claims will not be cognizable unless they contain the following information:

1. The name and address of the carrier;
2. An identification and description of the established route or routes of the carrier alleged to have been adversely impacted by the actions of NJ TRANSIT;

3. A copy of the relevant operating authority or Certificate of Public Convenience and Necessity issued by a regulatory body for each established route of the carrier alleged to have been impacted by the actions of NJ TRANSIT;

4. A detailed description of the actions of NJ TRANSIT alleged to be destructively competitive including, but not limited to, the date of such actions, the carrier's reasons why it alleges the particular actions of NJ TRANSIT are alleged to be destructively competitive, and the actions taken by the carrier to respond to the acts at issue. This statement must contain the facts upon which the carrier relies to support its claim of destructive competition;

5. The economic and operational impact of the alleged acts of destructive competition on the carrier, its employees, and customers; and

6. A statement of the relief sought, including alternatives deemed appropriate by the carrier pursuant to N.J.A.C. 16:74-2.5.

(d) Nothing in this section shall be construed to prevent the carrier from presenting additional facts to the administrative law judge (ALJ) for his or her consideration.

(e) Upon receipt of the claim, the designee of the President and CEO shall provide the claimant with an acknowledgement of receipt of the claim and shall perform a review of the submitted claim within 30 days of receipt to ensure that it is complete with respect to the requirements of this section. The purpose of this review is not to pass judgment on the accuracy or completeness of the facts relating to the allegation or on the merits of the claim, but rather to ensure its completeness. If the review determines that the submitted claim is incomplete, the claimant will be notified and provided an opportunity to resubmit the claim.

16:74-2.2 Conferences

(a) Settlement conferences may be held in accordance with the provisions at N.J.A.C. 1:1-4.2.

(b) Settlement discussions and unaccepted proposals of settlement or of adjustment will be privileged and will not be admissible in evidence against either NJ TRANSIT or the carrier.

16:74-2.3 Transmittal to Office of Administrative Law (OAL)

When the carrier has satisfied all of the requirements at N.J.A.C. 16:74-2.1, the matter will be considered a contested case and the President and CEO shall, within 30 days of receipt of the completed claim, refer the complaint to the OAL to be processed in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

16:74-2.4 Factors to be considered

(a) The following factors shall be considered in determining whether NJ TRANSIT has engaged in destructive competition:

1. Whether NJ TRANSIT or the carrier was the first to provide the service in question;
2. Whether the action of NJ TRANSIT was a significant factor in causing the alleged adverse impact on the carrier;
3. Whether NJ TRANSIT is complying with all applicable Federal and State laws, its Certificates of Public Convenience and Necessity and applicable tariffs, in providing the service alleged to be destructively competitive;
4. The inherent benefits of the service to the riders, including, but not limited to, destination, door to door travel time, frequency of service, comfort, cost, transfer frequencies, or proximity to the riders' residences;
5. Whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest; and
6. Whether the level of service and fares of NJ TRANSIT are destructively competitive.

(b) For purposes of this section, when considering whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest, implementation and operation of any new mass transit service or any service improvements resulting from any of the projects contained in the "Circle of Mobility" as defined at P.L. 1984, c. 73 (N.J.S.A. 27:1B-3) or amendments thereto shall be deemed to be in the public interest and not a violation of N.J.S.A. 27:25-1 et seq., or this chapter. As defined in that law, "Circle of Mobility" means an essential group of related transit projects that include:

1. The New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface Transportation Efficiency Act of 1991" Pub. L. 102-240, and consisting of the following elements:
 - i. Secaucus Transfer;
 - ii. Kearny Connection, that is, the NJ TRANSIT service known as MidTOWN Direct;
 - iii. Waterfront Connection;
 - iv. Northeast Corridor Signal System;
 - v. Hudson River Waterfront Transportation System, that is, the Hudson Bergen Light Rail System, including advancing extension of Hudson Bergen Light Rail service along Northern Branch in Bergen County;
 - vi. Newark-Newark International Airport Elizabeth Transit Link;
 - vii. A light rail connection between Penn Station Newark and Broad Street Station, Newark; and
 - viii. New York Penn Station concourse;

2. The modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035(a) of the "Intermodal Surface Transportation Efficiency Act of 1991"; the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex, and Warren Counties to the North Jersey Transportation Rail Centers;

3. Commuter rail service in the central New Jersey region terminating at the proposed Lakewood Transportation Center in Ocean County or another location as determined by NJ TRANSIT; and

4. The equipment or facilities needed to operate revenue service associated with the improvements made by the above projects.

(c) For the purposes of this section, when considering whether the NJ TRANSIT service alleged to be destructively competitive is in the public interest, implementation and operation of any new mass transit service or service improvements resulting from any of the projects contained in a Regional Transportation Plan (RTP) of a Municipal Planning Organizations (MPOs) in this subsection, shall be deemed to be in the public interest and not in violation of N.J.S.A. 27:25-1 et seq. and this chapter. MPOs and RTPs include:

1. Projects covered pursuant to the North Jersey Transportation Planning Authority Regional Transportation Plan;
2. Projects covered pursuant to the South Jersey Transportation Planning Organization Regional Transportation Plan; and
3. Projects covered pursuant to the Delaware Valley Regional Planning Commission Connections Plan for Greater Philadelphia for Major Regional Transit System Expansion Projects.

(d) Nothing in this section should be construed to preclude additional factors from being considered in determining whether NJ TRANSIT has engaged in destructive competition.

16:74-2.5 Remedy and order

(a) The sole remedy that may be considered pursuant to this chapter and N.J.S.A. 27:25-7(b) is to direct NJ TRANSIT to cease and desist in whole or part from using its equipment or facilities in a destructively competitive manner. No monetary damages may be awarded by the administrative law judge (ALJ).

(b) Upon receipt of the initial decision of the ALJ, the President and CEO shall present the matter to the Board and the Board shall adopt an order or final decision accepting, rejecting, or modifying the initial decision by the ALJ or remanding the decision to the OAL for further action, all in accordance with N.J.A.C. 1:1-18.6 and 18.7.

OTHER AGENCIES

(a)

**PUBLIC EMPLOYMENT RELATIONS COMMISSION
Representation Procedures**

Readoption with Amendments: N.J.A.C. 19:11

Proposed: January 21, 2025, at 57 N.J.R. 180(a).

Notice of Substantial Changes Upon Adoption: July 7, 2025, at 57 N.J.R. 1380(a).

Adopted: September 25, 2025, by the Public Employment Relations Commission, Mary E. Hennessy-Shotter, Chair.

Filed: September 25, 2025, as R.2025 d.125, **with substantial changes** to proposal after additional notice and public comment pursuant to N.J.S.A. 52:14B-4.1.

Authority: N.J.S.A. 34:13A-5.4.e, 34:13A-6.d, and 34:13A-11.

Effective Dates: September 25, 2025, Readoption;
October 20, 2025, Amendments.

Expiration Date: September 25, 2032.

Take notice that the Public Employment Relations Commission ("Commission" or "PERC") proposed the readoption of N.J.A.C. 19:11 with amendments on January 21, 2025, at 57 N.J.R. 180(a). The public