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NOTICE¹

In the Matter of the Board's Review of the Energy Competition Rules at N.J.A.C. 14:4 Docket Number EX14111343²

Notice of Stakeholder Meeting and Opportunity to Comment
Thursday, January 29, 2015 - 10:00 a.m.
New Jersey Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08625
Multipurpose Room, 1st Floor

Board Staff is currently reviewing the Government Energy Aggregation (GEA) Program Rules as part of its ongoing review of the Energy Competition Rules in the aforementioned proceeding. Based upon Staff's review of the current rules and Staff's review of GEA Program submittals over the past two to three years, Staff may propose modifications to the GEA rules through the formal rulemaking process. Attached is a Discussion Document that reflects rule modifications that Staff is considering. The purpose of the stakeholder meeting is to discuss the current GEA rules and solicit input from the stakeholders on an informal basis before Staff recommends rule modifications to the Board. At the meeting, participants will have the opportunity to discuss these possible modifications, and make recommendations regarding other possible rule modifications. After the meeting, the stakeholders will have the opportunity to electronically submit informal written comments.

¹ Not a paid legal advertisement.

² The stakeholder process on the consumer protection related provisions in N.J.A.C. 14:4-7, under Docket Number EX14060579, has now been expanded to include a broader review of N.J.A.C. 14:4 and will be conducted under this new docket number.

Stakeholders interested in attending are asked to review the Board's current GEA Rules at N.J.A.C. 14:4-6, and the attached Discussion Document and be prepared to provide input regarding its contents. Participating Stakeholders are also asked to review the provisions governing the formation and conduct of GEA programs, which can be found at N.J.S.A. 48:3-92 - N.J.S.A. 48:3-95, to ensure that any GEA rule modifications that they may recommend are consistent with the statute.

Following the meeting, written comments can be submitted no later than Friday, February 20, 2015 to rule.comments@bpu.state.nj.us. Comments on these matters sent to this address should be sent in WORD format and PDF, and the subject line should include – GEA comments Dkt. No.EX14111343 – along with the last name of the author or the name of the organization. All comments will be posted on the Board's website.



Kristi Izzo
Secretary of the Board

Dated: December 23, 2014

**In the Matter of the Board's Review of the Energy Competition Rules at
N.J.A.C. 14:4 - Docket Number EX14111343**

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N.J.A.C. 14:4 - Docket Number EX14111343**

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Discussion Document

In the Matter of the Board's Review of the Energy Competition Rules at N.J.A.C. 14:4 Docket Number EX14111343

- I. Reduce Unintended Customer Drops Associated with the LDC Notice to Customer of a Change Order (N.J.A.C. 14:4-2.6)
 1. Staff has been informally advised that residential customers do not realize the letter they receive from their LDC is referring to the government energy aggregation program. Therefore, sometimes they drop out of the program even though it was their intent to be included.
 2. Rule Modification: Modify the rules to require the LDC to use a different standard letter for GEA programs so it is clear to the customer that the switch will be the result of a GEA program that was established by their county or municipality.
 - a) Could the EDI system be modified so the TPS could send something in the EDI switch that would identify the switch as being part of a GEA program?
- II. Provide Clarity Regarding who can be a designee (14:4-6.3 (b) General Provisions Designee)
 1. Staff has received informal inquiries regarding who can be a designee.
 2. Rule Modification: Clarify that a designee must be qualified. Modify this section to state that a designee shall not arrange the retail sale of electricity, electric-related services, gas supply or gas-related service between a government aggregator and a TPS without first registering with the Board as an energy agent. This is already required pursuant to 14:4-5.1 (f) but this would bring it to the attention of those looking for the GEA regulations.
- III. Ensure that Staff and Rate Counsel have the Appropriate Information to Review GEA Documents, Provide Comments, and Track GEA Programs
 1. Distribution List for Filings:
 - a) Rule Modification: Require copies of the filings to be sent to the Director of Energy and the Director of Customer Assistance in order to expedite review of filings.
 2. Cover Letter for Filings:
 - a) Rule Modification: In order to provide sufficient information regarding the filing, require the cover letter for each filing to include:
 1. The name of the government energy aggregation program
 2. The name of each municipality participating in the government energy aggregation program
 3. The name of each LDC that serves the geographic area governed by the participating municipality/county.
 4. Contact information for the person responsible for submission of the document.
 5. Contact information for each member of the governing body of each participating municipality / county. (N.J.S.A.48:3-94 b. requires that comments be sent to the governing bodies.)
 6. A description of the document provided and, if applicable, the section of the regulation pursuant to which it is being filed.
 7. The anticipated start date for the GEA program.

8. A brief description of the of the GEA program (residential and commercial, residential only, gas, electric, the estimated number of customers, etc...)

3. Additional Documents to Be Filed with the Board and Rate Counsel:

- a) Copies of the ordinance or resolution that is presently provided to the LDC pursuant to N.J.A.C. 14:4-6.5(a) or 14:4-6.6(a).
- b) Copies of the final TPS contract. (Similar to the current filing requirements for residential TPS customer contracts, pursuant to N.J.A.C. 14:4-7.6 (h)).
- c) Copies of final opt-out letters including the GEA Program Summary discussed later in this document.
- d) A letter indicating that the program has started or that the municipality has decided not to go forward with the program so that Staff can close the docket.
- e) A letter with basic, non-confidential statistics regarding the program. (the number of residential opt-out letters sent, the number of customers included at the start of the program, the number of customers at the end of the program.)

IV. Improve the Accuracy / Effectiveness of Customer Lists for Opt-Out Notices sent pursuant to N.J.A.C. 14:4-6.5 (d) and N.J.A.C. 14:4-6.6(q):

1. Present description of the customer list for Option 2 GEA program Opt-Out notices: N.J.A.C. 14:1-6.6 (p) requires the LDC to provide the lead agency with the name, address and account number of each residential customer located in a participating municipality, that is not already being served by a TPS. N.J.A.C. 14:4-6.5(d) requires the LDC to send Opt-Out letters for Option 1 GEA programs to a similar list
2. Consecutive GEA programs:
 - a) The LDC computer systems generally cannot distinguish between a residential customer that is in a GEA program and a residential customer who is served by a TPS and not in a GEA program. Therefore, if the OPT-Out letters are sent to the list provided by the LDC, customers in a current GEA program will not receive the OPT-Out letter for a consecutive GEA program.
 - b) Rule Modification: Clarify that for a consecutive GEA program, the letters would be sent to residential customers who are in the current GEA program.
 - c) Rule Modification:
 1. Require the selected supplier to keep a list of residential customers in the program and supply it to the lead agency so that they could be included in the opt-out notice list for a consecutive GEA program. OR
 2. Require the TPS to send data in the EDI enrollment transaction that identifies the customer as a GEA customer, and require the LDC to add something to the customer record of this customer that identifies the customer as such so that they can be included in the opt-out notice list for a consecutive GEA program.
3. Residential accounts with mailing addresses that reflect different township names than the name of the township that the property is located within:
 - a) Ensure that residential customers outside of a participating municipality are not inadvertently included in a GEA program due to a difference between the name of the municipality the property is physically located within and the name of the municipality used for the mailing address of the property:

- b) The LDCs' residential customer account records may currently reflect a municipality name that is different than the name of the municipality within which the property is located. This can happen when a house has a mailing address that reflects the name of the post office that serves the house, rather than the name of the municipality the house is located within. Therefore, using the LDC list may result in residential customers from non-participating municipalities being included in the program or residential customers from participating municipalities being excluded from the program.
- c) Rule Modification: Require the governing body of each participating municipality to review the LDC's list of customers and remove those customers whose properties are not physically located within the municipality's borders before the list can be used for the distribution of Opt-out letters.

4. Residential Customers who oppose GEA programs:

- a) The lead agency sends opt-out notices to all residential customers who are not served by TPSs. Some residential customers oppose the Opt-Out process and would like to be permanently excluded from GEA programs. They do not wish to receive opt-out letters after they have advised the town that they do not want to be included in any GEA programs.
- b) Rule Modification: Require each participating municipality to maintain a list of the names, addresses, and LDC account numbers of residential customers who have advised the lead agency, the municipality, the LDC, or the selected supplier that they prefer to be excluded from all future government energy aggregation programs.

V. Ensure that Residential Customers are provided with sufficient information to decide if they want to be included in a GEA Program or Opt-Out:

1. GEA Program Summary: Pursuant to the Board's September 30, 2014 order, I/M/O Third Party Suppliers N.J.A.C. 14:4 et seq. the Board's Review of Consumer Protection Provisions of its Rules Concerning Third Party Suppliers, Docket No. EX14060579, all TPSs must complete the "TPS Contract Summary for each residential customer that they sign up or renew for service on or after November 15, 2014". The Board also directed staff to initiate a rulemaking to require TPSs to include a TPS Contract Summary to all residential shopping customers.

- a) Rule Modification: Require TPSs to complete a GEA Program Summary and send it to the residential customers along with the Opt-Out notice. The GEA Program Summary would assist them in understanding the most relevant terms of the GEA program so that they can decide whether or not they want to participate. This would be provided along with the Opt-Out Notices.

1. The GEA Program Summary would be the same as the TPS Contract Summary except for the following:

- 1. A new first row would be inserted with the following label in the left column: "As a residential gas/electric customer who has not chosen a Third Party Supplier for your gas/electric supply, you will be **AUTOMATICALLY ENROLLED in this Government Energy Aggregation Program unless you indicate your desire NOT TO** participate by doing the following." The right column would include the instructions for opt-ing out with the deadline date underlined and bolded.

2. The form would be modified to be more reflective of a GEA program. For example, it would have information at the top that would identify the specific GEA program, rather than the specific customer, and the form would indicate that a residential customer can leave a GEA program at any time without penalty.

2. Opt-Out Notices for Option 2 GEA Programs:

- a) Rule Modification: Add the following to the list of information that must be included in the Opt-Out notice: 1) a typical residential customer annual bill comparison between the selected supplier and the utility's approved BGS/BGSS rates, and 2) a statement that utility rates could increase or decrease during the course of the program, which would affect the level of customer savings. This language is already included in the sample Opt-Out notices posted on the BPU's website.

VI. Ensure that the contract between a government aggregator and the selected TPS contains the appropriate provisions (N.J.A.C. 14:4-6.10)

1. Rule Modification to add the following to the list of items that must be included in the contract:
 - a) A provision that the TPS will return the customers to the LDC at the end of the contract term.
 - b) If it is the government energy aggregator's intent that the residential customers in the program will be provided with one bill from the utility for utility and TPS services, the contract shall reflect that the customer will be billed on a utility consolidated billing basis, and it shall address specifically what will happen if the customer no longer qualifies for utility consolidated billing.
 - c) A provision that all customer information shall be kept confidential and only used for the government energy aggregation program.
 - d) The signature of one or more members of the governing body of each participating municipality. This task may not be delegated.

VII. Clarify that the regulations do not prohibit non-residential customers from joining a GEA program after the initial period for opt-ins.

1. N.J.A.C. 14:4-6.6(d) and 14:4-6.5(i) provide if a non-residential customer does not submit an opt-in response to the LDC within 30 calendar-days after the post-mark on the notice, the customer shall not be included in the energy aggregation program.
2. Rule Modification: Clarify that these sections do not preclude non-residential customers from joining the program at any time should the TPS contract contain provisions for their inclusion at a later date.

VIII. Additional Issues / Rule Modifications:

1. Are there any delays in the process that can be expedited?
2. Should LDCs be required to include a page on their website for townships interested in creating a GEA program that would include LDC contact information for those interested in creating a GEA program?
3. How can prospective bidders find out how to bid? Should the lead agency (or its designee) be required to post contact information for prospective bidders?
4. Other suggestions?