

**13:45A-17A.12 Requirements of certain home elevation contracts**

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home elevation contract in which a person required to be registered as a home elevation contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

**13:45A-17A.13 Fees**

(a) The Division shall charge the following non-refundable home elevation contractor registration fees:

- 1. Initial registration fee \$110.00;
- 2. Renewal registration fee \$90.00;
- 3. Late fee \$25.00;
- 4. Reinstatement fee \$50.00;
- 5. Replacement or duplicate certificate fee \$20.00.

**13:45A-17A.14 Identification badges and notice statement**

(a) Each individual performing, engaging, or attempting to engage in the face-to-face sale of home improvements, including home elevations, on behalf of an entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c), shall wear an identification badge on the upper left corner of the individual's torso in a plainly visible fashion. An individual shall not engage in the face-to-face sale of home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17A.4(c) until the individual has obtained and is wearing a valid identification badge.

- 1. This section shall not become effective until such time as a rule requiring all home improvement contractors to wear identification badges under N.J.A.C. 13:45A-17 becomes effective.
- 2. Any person required to wear an identification badge shall provide consumers with the following written statement:

**MY BADGE TELLS YOU**

that I am employed by \_\_\_\_\_ and that I am authorized to sell home elevations and home improvements on its behalf.

This Badge is for identification purposes only. The issuance of this Badge does not constitute or imply any endorsement or approval by the New Jersey Division of Consumer Affairs.

(b) For the purpose of identifying those individuals who are required to obtain and wear an identification badge, each entity shall, upon registration, complete a badge declaration setting forth the name and address of residence of each individual who will perform, engage, or attempt to engage in the face-to-face sales of home elevations or home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed by the entity pursuant to N.J.A.C. 13:45A-17A.4(c). Access to the electronic form shall be available by logging on to the Division website. The name, address, and contact information for the State authorized vendor or vendors issuing identification badges shall be posted on the Division website.

- (c) An individual shall not be issued a badge unless:
  - 1. The registration of the entity with which the individual is associated is in good standing;
  - 2. The individual is listed on the entity's badge declaration, as supplemented and amended from time to time;
  - 3. The badge fee has been paid by the entity to the vendor; and
  - 4. The individual presents to the State authorized vendor a form of government-issued photo identification containing the individual's current address of residence, which shall match the address listed on the entity's badge declaration.

(d) The Division, through the State authorized vendor or vendors, shall issue an identification badge that shall be unalterable and shall include the following information:

- 1. The name, color photograph, and signature of the individual to whom the badge has been issued;
- 2. The business name and registration number of the entity;
- 3. The badge's expiration date; and

4. A clear and visible statement that the badge is not for an electrical contractor, plumbing contractor, or heating, ventilating, air conditioning, and refrigeration contractor.

(e) The badge shall be valid for two years. Each entity on whose behalf a badge has been issued shall apply for renewal of the badge at least 45 days prior to its expiration date, at which time the entity shall pay the badge renewal fee and shall obtain from the State authorized vendor a new badge showing an updated photo and expiration date. An entity that permits an individual required to have a badge to work without a valid badge shall be deemed to be in violation of this subchapter within the meaning of N.J.A.C. 13:45A-17A.8 and shall also be subject to the penalty provisions of N.J.S.A. 56:8-143.

(f) Identification badges are not transferable. Failure of an entity to collect and surrender an identification badge shall be deemed to be a violation within the meaning of N.J.A.C. 13:45A-17.9. The address for surrender shall be set forth on the Division's website. Upon termination of an association between an entity and an individual to whom an identification badge was issued, the entity shall:

- 1. Inform the Division within three business days of the date of termination by logging on to the Division's website and amending the badge declaration; and
- 2. Collect the individual's identification badge and surrender it to the State authorized vendor for destruction within three business days of the date of termination.

(g) In the case of a lost or stolen badge, the individual shall not perform, engage or attempt to engage in the face-to-face sales of home improvements on behalf of the entity at a location or locations in this State other than the business location or locations disclosed pursuant to N.J.A.C. 13:45A-17.5(a)1 until the individual obtains and is wearing a new badge. If an individual's badge is lost or stolen, or a badge holder has legally changed his or her name through marriage or court order, the entity with which the individual is associated shall, within three business days of the event, report the event to the Division by logging on to the Division's website and:

- 1. In the case of a name change, amend the badge declaration; and
- 2. In the case of a lost or stolen badge, report the loss or theft.

(h) An entity whose registration has been suspended or revoked, or has not been renewed, shall, within three business days of that suspension, revocation, or nonrenewal, surrender all identification badges issued under the registration number of the entity to the State authorized vendor. The address for surrender shall be set forth on the Division's website. All badges so surrendered shall be destroyed. Any subsequent reinstatement of registration shall require the issuance of a new badge.

**PUBLIC UTILITIES**

(a)

**BOARD OF PUBLIC UTILITIES**

**Third Party Suppliers Advertising and Marketing Standards**

**Special Adopted Amendments: N.J.A.C. 14:4-7.2, 7.3, and 7.4**

**Special Adopted New Rule: N.J.A.C. 14:4-7.13**

Special Amendments and New Rule Adopted: September 30, 2014, by the New Jersey Board of Public Utilities, Dianne Solomon, President, Joseph L. Fiordaliso and Mary-Anna Holden, Commissioners.

Filed: September 30, 2014, as R.2014 d.159.

Authority: N.J.S.A. 48:3-51 and 48:3-85 et seq.

BPU Docket Number: EX14060610

Effective Date: September 30, 2014.

Expiration Date: March 30, 2016.

**Take notice** that the Board of Public Utilities has adopted amendments at N.J.A.C. 14:4-7.2, 7.3, and 7.4 and new rule at N.J.A.C. 14:4-7.13, to codify new statutory requirements enacted through P.L. 2013, c. 263, which amended N.J.S.A. 48:3-51 and 48:3-85. The rules are designed to prohibit certain energy suppliers from making false and misleading claims to potential customers and to prohibit suppliers' calls to customers where no business relationship exists if those individuals are on the Do Not Call list.

These specially adopted new rules will remain in effect until March 30, 2016, or until the rules are proposed for public comment and readopted through standard rulemaking procedures.

**Full text** of the special adoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 4. RETAIL CHOICE CONSUMER PROTECTION

##### 14:4-7.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. In addition, definitions set forth at N.J.A.C. 14:4-1.2 and 14:3-1.1 shall apply to this subchapter, unless the context clearly indicates otherwise.

**“Existing business relationship”** means a relationship formed by a voluntary two-way communication between an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer and a customer regardless of an exchange of consideration, on the basis of an inquiry, application, purchase, or transaction initiated by the customer regarding products or services offered by the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer; however, a customer's use of electric generation service or gas supply service through the customer's electric public utility or gas public utility shall not constitute or establish an existing business relationship.

**“Sales representative”** means a person employed by, acting on behalf of, or as an independent contractor for, an electric power supplier, gas supplier, broker, energy agent, marketer, or private aggregator who, by any means, solicits a potential residential customer for the purpose of providing electric generation service or gas supply service to that customer.

**“Telemarketer”** shall have the same meaning as set forth in N.J.S.A. 56:8-120.

**“Telemarketing sales call”** means a telephone call made by a telemarketer to a potential residential customer as part of a plan, program, or campaign to encourage the customer to change the customer's electric power supplier or gas supplier. A telephone call made to an existing customer of an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, or sales representative, for the sole purpose of collecting on accounts or following up on contractual obligations, shall not be deemed a telemarketing sales call. A telephone call made in response to an express written, electronic, or telephonic request of a customer shall not be deemed a telemarketing sales call.

**“Unsolicited advertisement”** means any advertising claims of the commercial availability or quality of services provided by an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer which is transmitted to a potential customer without that customer's prior express invitation or permission.

##### 14:4-7.3 Advertising standards

(a)-(c) (No change.)

(d) **In the advertisement of their services, electric power suppliers, gas suppliers, brokers, energy agents, marketers, private**

**aggregators, sales representatives, and telemarketers are prohibited from:**

1. **Making false or misleading advertising claims to a potential residential customer;**

2. **Contacting a potential residential customer by telephone for the purpose of making an unsolicited advertisement, if the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer does not have an existing business relationship with the potential residential customer and the residential customer's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission.**

(e) **Any complaints related to violations of (d)2 above shall be forwarded to the Division of Consumer Affairs for further investigation.**

##### 14:4-7.4 Marketing standards

(a)-(m) (No change.)

(n) **In the marketing of their services, electric power suppliers, gas suppliers, brokers, energy agents, marketers, private aggregators, sales representatives, and telemarketers are prohibited from:**

1. **Making false or misleading marketing claims to a potential residential customer;**

2. **Contacting a potential residential customer by telephone for the purpose of the marketing of their services, if the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer does not have an existing business relationship with the potential residential customer and the residential customer's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs or the national do-not-call registry as maintained by the Federal Trade Commission.**

(o) **Any complaints related to (n)2 above shall be forwarded to the Division of Consumer Affairs for further investigation.**

##### 14:4-7.13 Penalties

(a) **In addition to any other penalties, fines, or remedies authorized by law, an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer that violates the provisions of N.J.A.C. 14:4-7.3(d)1 and 7.4(n)1 and collects charges for electric generation service or gas supply service from a residential customer who was subjected to false or misleading advertising or marketing claims by the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer in violation of the provisions of N.J.A.C. 14:4-7.3(d)1 and 7.4(n)1:**

1. **Shall be liable to the residential customer in an amount equal to all charges paid by the residential customer after such violation occurs in accordance with any procedures as the board may prescribe, whether the electric power supplier or gas supplier provided the electric generation service or gas supply service to that customer, or the electric generation service or gas supply service was provided to the customer by a broker, energy agent, marketer, private aggregator, sales representative, or telemarketer who contacted the customer on behalf of the electric power supplier or gas supplier; and**

2. **Shall be liable for a civil penalty pursuant to N.J.S.A. 48:3-83.**

(b) **The Board is hereby authorized to revoke the license of any electric power supplier, gas supplier, broker, energy agent, marketer, or private aggregator found in violation of N.J.A.C. 14:4-7.3(d) or 7.4(n).**