

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

ENERGY COMPETITION

Proposed Amendments: N.J.A.C. 14:4-1.2, 2.6, 4.4, 5.5, 6.4 and 6.5

Proposed New Rules: N.J.A.C. 14:4-2.6A and 7.14

Authorized By: New Jersey Board of Public Utilities, Christine Guhl-Sadovy, President, Dr. Zenon Christodoulou, Marian Abdou, and Michael Bange, Commissioners.

Authority: N.J.S.A. 48:2-13; 48:2-16, 16.1 through 16.4, 17, 20, 23, 24, 25, and 27; 48:3-2.3, 3, 4, and 7.8; and 48:19-17.

Calendar Reference: See Summary below for an explanation of the exception to the calendar requirement.

BPU Docket Number: EX25040201

Proposal Number: The deadline for comments on this matter is 5:00 p.m. on _____, 2024. Please submit comments directly by using the Board's Public Document Search tool, search for the specific docket listed above and post by utilizing the "Post Comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Sherril L. Lewis

Secretary of the Board

New Jersey Board of Public Utilities

44 South Clinton Ave., 1st Floor

P.O. Box 350

Trenton, NJ 08625-0350

Attn: BPU Docket Number:

Email: board.secretary@bpu.nj.gov

Phone: 609-292-1599

All comments are considered “public documents” for purposes of the State’s Open Public Records Act. Commenters may identify information that they seek to keep confidential by submitting it in accordance with the confidentiality procedures set forth in N.J.A.C. 14:1-12.3.

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities is proposing to readopt its Energy Competition rules at N.J.A.C. 14:4 (also called Chapter 4). These rules implement provisions of the Electric Discount Energy Competition Act (EDECA), N.J.S.A. 48:3-49 et seq., and other statutory authority. The rules apply to electric power suppliers, gas suppliers, electric public utilities, gas public utilities, energy aggregators, energy agents, energy public utilities, public utility holding companies and entities that provide basic generation service (BGS) and/or basic gas supply service (BGSS).

In developing the rulemaking, the Board conducted informal stakeholder outreach through public meetings and soliciting comments through the internet. The feedback received was carefully considered and many suggestions were incorporated into the rules.

By filing this notice of proposed readoption with the Office of Administrative Law prior to February 27, 2026, that date is extended 180 days to August 26, 2026, pursuant to N.J.S.A. 52:14B-5.1c. As the Board has provided a 60-day comment period on this notice of proposal, it is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5

A summary of the subchapters of N.J.A.C. 14:4 follows:

Subchapter 1. Definitions and General Provisions

N.J.A.C. 14:4-1.1 sets forth the scope and purpose of the chapter. The Board proposes no changes.

N.J.A.C. 14:4-1.2 contains definitions of general applicability. The Board proposes to amend the definitions for the terms “gas supplier”; “PJM Interconnection” or “PJM”; “slamming” and to add a new definition for the term “preferred supplier freeze.”

Subchapter 1A. (Reserved)

Subchapter 2. Energy Anti-Slamming

N.J.A.C. 14:4-2.1 sets forth the scope of this subchapter. The Board proposes no changes.

N.J.A.C. 14:4-2.2 contains definitions. The Board proposes no changes.

N.J.A.C. 14:4-2.3 sets forth requirements for change orders required for switches. The Board proposes no changes.

N.J.A.C. 14:4-2.4 sets forth requirements for signing up or switching customers electronically. The Board proposes no changes.

N.J.A.C. 14:4-2.5 requires that third-party suppliers (TPS) keep records of customer authorizations. The Board proposes no changes.

N.J.A.C. 14:4-2.6 requires local distribution companies (LDC) to notify the customer of a change order and sets forth the timing requirements for switches. The Board proposes to add new subsection (d) to provide a description of the notice a customer may receive when they have a preferred supplier freeze pursuant to new section N.J.A.C. 14:4-2.6A.

N.J.A.C. 14:4-2.6A is a new section which sets forth requirements for preferred supplier freezes.

N.J.A.C. 14:4-2.7 sets forth requirements for slamming complaints and investigations. The Board proposes no changes.

N.J.A.C. 14:4-2.8 sets forth the penalties for violating this subchapter. The Board proposes no changes.

Subchapter 3. Affiliate Relations

N.J.A.C. 14:4-3.1 sets forth the scope of this subchapter. The Board proposes to amend subsection (a) to clarify that the affiliate relations standards of conduct set forth in N.J.A.C. 14:4-3.3 through 3.5 applies to interactions and relationships between an electric public utility or gas public utility and affiliated competitive business segments and holding companies of the electric public utility or gas public utility as described in Section 1.

N.J.A.C. 14:4-3.2 contains definitions. The Board proposes to clarify the definition of “fully allocated cost” and to amend the definition “public utility holding company” or “PUHC” to include any private equity/private equity investment fund and/or a private equity or partnership as described in subparagraph 1 of the definition.

N.J.A.C. 14:4-3.3 sets forth provisions concerning nondiscrimination. The Board proposes no changes.

N.J.A.C. 14:4-3.4 sets forth provisions concerning information disclosure. The Board proposes no changes.

N.J.A.C. 14:4-3.5 sets forth provisions concerning separation of corporate entities. The Board proposes no changes.

N.J.A.C. 14:4-3.6 sets forth provisions concerning competitive products and/or services offered by a utility or related competitive business segment of a utility. The Board proposes no changes.

N.J.A.C. 14:4-3.7 sets forth provisions concerning regulatory oversight. The Board proposes to amend subsection (b)1 to clarify that the electric and/or gas public utility compliance plan shall contain an accurate list of all affiliates of the public utility holding company in addition to an accurate list of all affiliates of the electric public utility and/or gas public utility

N.J.A.C. 14:4-3.8 sets forth provisions concerning dispute resolution. The Board proposes no changes.

N.J.A.C. 14:4-3.9 sets forth provisions concerning violations and penalties. The Board proposes to amend subsection (b)1 to correct the spelling of the word “competitive.”. In Section 2(1)(a)ix. of the Appendix, the Board proposes to amend the section to clarify the derivation of the proposed charge for each competitive service offering. In Section 2(1)(a)xii. of the Appendix, the Board proposes to amend the section to clarify the language governing requested price comparison information without changing the meaning. In Section 2(1)(a)xii5. of the Appendix, the Board proposes to amend the section to replace the word “its” with the word “Petitioners.”

Subchapter 4. Public Utility Holding Company (PUHC) Standards

N.J.A.C. 14:4-4.1 sets forth the scope of this subchapter. The Board proposes no changes.

N.J.A.C. 14:4-4.2 contains definitions. The Board proposes no changes.

N.J.A.C. 14:4-4.3 sets forth provisions concerning asset investments. The Board proposes no changes.

N.J.A.C. 14:4-4.4 sets forth provisions concerning access to information. The Board proposes to add new subsection (m) which governs the treatment of information provided to the Board and Board Staff in this section and pursuant to N.J.A.C. 14:3-6.3. N.J.A.C. 14:4-4.5 sets forth provisions concerning service agreements. The Board proposes no changes.

N.J.A.C. 14:4-4.6 sets forth provisions concerning structural separation. The Board proposes no changes.

N.J.A.C. 14:4-4.7 sets forth provisions concerning operational separation. The Board proposes no changes.

Subchapter 5. Energy Licensing and Registration

N.J.A.C. 14:4-5.1 sets forth the scope of this subchapter and provides general provisions. The Board proposes to amend section (h)3 to clarify language to say “electric power supplier license” and section (j) to add “https” before the internet address. .

N.J.A.C. 14:4-5.2 addresses basic requirements for an electric supplier or gas supplier license. The Board proposes no changes.

N.J.A.C. 14:4-5.3 sets forth the application contents for an initial electric supplier or gas supplier license. The Board proposes no changes.

N.J.A.C. 14:4-5.4 sets forth the procedures for Board review of an application for an initial license or annual information update form filing by an electric power or gas supplier. The Board proposes to amend the subsection (f) to clarify language regarding the existing surety bond requirements. The Board proposes additional amendments to clarify language at subsections (h) and (i).

N.J.A.C. 14:4-5.5 sets forth requirements that apply after a license is issued. The Board proposes amendments to clarify language at subsection (f) and paragraph (i)². Proposed new subsection (k) provides requirements for the return of surety bonds associated with electric power or gas supplier licenses.

N.J.A.C. 14:4-5.6 sets forth the term of an electric power or gas supplier license. The Board proposes an amendment to clarify language at subsection (f).

N.J.A.C. 14:4-5.7 sets forth the required contents of an annual information update form filing by an electric power or gas supplier license. The Board proposes an amendment to clarify language at paragraph (d)⁶.

N.J.A.C. 14:4-5.8 sets forth the registration requirements for an energy agent or private aggregator. The Board proposes no changes.

N.J.A.C. 14:4-5.9 sets forth the registration annual information update form filing requirements for an energy agent or private aggregator. The Board proposes no changes. N.J.A.C. 14:4-5.10 sets forth the LDC responsibilities. The Board proposes an amendment to clarify language at subsection (b).

N.J.A.C. 14:4-5.11 sets forth the registration requirements for energy consultants. The Board proposes no changes.

N.J.A.C. 14:4-5.12 sets forth the fees for license or registration applications and annual information update form filing. The Board proposes amendments at subsection (a) to increase fee amounts for all license and registration applications and annual information update form filings. In addition, the Board proposes an amendment to clarify language at subsection (b).

N.J.A.C. 14:4-5.13 sets forth the penalties for violating this subchapter. The Board proposes no changes.

Subchapter 6. Government Energy Aggregation Program

N.J.A.C. 14:4-6.1 sets forth the scope of this subchapter. The Board proposes no changes.

N.J.A.C. 14:4-6.2 contains definitions. The Board proposes no changes.

N.J.A.C. 14:4-6.3 sets forth general provisions. The Board proposes to amend subsection (i) to clarify the status of a residential customer decision to opt-out of a government-private energy aggregation program.

N.J.A.C. 14:4-6.4 sets forth the provisions for municipal and/or county energy aggregation programs. The Board proposes to amend the section by recodifying subsection (g) as subsection (e) for clarity purposes; amend new recodified subsection (e)1i.(3) to exempt from automatic enrollment a residential customer with a third party supplier freeze; amend new recodified subsection (e)1.iii to clarify the status of a residential customer decision to opt-out of an Option 1 government-private energy aggregation program; amend new recodified subsection (e)2i.(3) to exempt from automatic enrollment a residential customer with a third party supplier freeze; amend new recodified subsection (e)2.iii to clarify the status of a residential customer decision to opt-out of a Option 2 government-private energy aggregation program; recodify the remaining affected subsections accordingly; and amend subsection (j)1 to change the name “Division of Energy” to “Division of Revenue and Rates”.

N.J.A.C. 14:4-6.5 sets forth the provisions for an option 1 government--private energy aggregation program. The Board proposes to amend subsection (d)1 to exempt from notice requirements of subsection (c) electric and gas customers who have a third party supplier freeze in place and to add a new subsection (f)3 to include notice by LDC to customer of the ramification of an opt-out response.

N.J.A.C. 14:4-6.6 sets forth the provisions for an option 2 government--private energy aggregation program. The Board proposes to amend subsection (u) to clarify that the section only applies to residential customers who were sent the notice.

N.J.A.C. 14:4-6.7 sets forth the requirements for the LDC aggregation agreement for government--private energy aggregation programs. The Board proposes no changes.

N.J.A.C. 14:4-6.8 sets forth the requirements for advertising for bids and contract award. The Board proposes no changes.

N.J.A.C. 14:4-6.9 sets forth the price requirements for government--private programs. The Board proposes no changes.

N.J.A.C. 14:4-6.10 sets forth the requirements of the contracts between a government aggregator and the selected TPS. The Board proposes no changes.

N.J.A.C. 14:4-6.11 sets forth the notice requirements for changes to active government--private energy aggregation programs. The Board proposes no changes.

Subchapter 7. Retail Choice Consumer Protection

N.J.A.C. 14:4-7.1 sets forth the scope of this subchapter. The Board proposes no changes.

N.J.A.C. 14:4-7.2 contains definitions. The Board proposes no changes.

N.J.A.C. 14:4-7.3 sets forth the TPS advertising standards. The Board proposes no changes.

N.J.A.C. 14:4-7.4 sets forth the TPS marketing standards. The Board proposes no changes.

N.J.A.C. 14:-7.5 sets forth the requirements that a TPS must follow if it requires its customers to meet income, security deposit, and/or credit requirements. The Board proposes no changes.

N.J.A.C. 14:4-7.6 sets forth the requirements for contracts between a TPS and a customer. The Board proposes to amend subsection (k) to clarify that a TPS must provide its customers with

contracts that contain a fixed rate element or both a fixed rate element and a variable rate element written notice of certain prescribed information.

N.J.A.C. 14:4-7.6A sets forth TPS contract summary requirements. The Board proposes to amend subsection (a)6 to require the TPS contract summary to include both fixed rate and variable rate elements and subsection (a)7 to require the TPS contract summary to include a brief explanation of the historical variable rates billed by the TPS for the three preceding months.

N.J.A.C. 14:4-7.7 sets forth requirements for bills to TPS customers. The Board proposes no changes.

N.J.A.C. 14:4-7.8 sets forth provisions restricting the disclosure of customer information. The Board proposes no changes.

N.J.A.C. 14:4-7.9 sets forth the procedure for TPS customer complaints. The Board proposes no changes.

N.J.A.C. 14:4-7.10 sets forth the procedure for termination of a residential contract by a TPS. The Board proposes no changes.

N.J.A.C. 14:4-7.10A sets forth the procedure for the transfer of a residential contract by a TPS. The Board proposes no changes.

N.J.A.C. 14:4-7.11 sets forth the requirements for the presentation of New Jersey Sales Tax. The Board proposes no changes.

N.J.A.C. 14:4-7.12 sets forth the requirements for rates that are characterized as fixed or firm. The Board proposes no changes.

N.J.A.C. 14:4-7.13 sets forth the penalties for violating this subchapter. The Board proposes no changes.

N.J.A.C. 14:4-7.14 is a new section which requires TPS to report customer billing errors that affect ten (10) or more customers to the Board Secretary and requires TPSs to credit residential customers that it overbills with interest. The proposed new rule sets forth how the billing errors must be reported and the information that must be included in the reports. The proposed new rule sets forth the interest rate that must be used by the TPSs for the bill credits.

Social Impact

The readoption of Chapter 4 with amendments and a new rule will have a beneficial social impact by continuing to ensure that New Jersey energy customers will receive the benefits of a competitive marketplace.

The readoption of the Board's anti-slamming rules along with the proposal of preferred carrier freezes will have a beneficial social impact because the rules will continue standards that protect consumers from having their energy supplier switched without their authorization. The readoption of the Board's affiliate relations rules will have a positive social impact by preventing cross-subsidization or other problems that could arise from the relationship between an electric and/or gas utility and a related competitive business segment, its public utility holding company or any of the holding company's related competitive business segments. The readoption of the rules will help ensure that New Jersey energy customers will continue to receive the benefits of a competitive marketplace.

The readoption of the PUHC rules will have a positive social impact. There is a potential for economic harm to an electric or gas public utility when it is acquired by a public utility holding company, as described below in the Economic Impact statement. These rules will protect the integrity of such electric or gas public utilities, and will thus ensure that investors and ratepayers can rely on and have continued confidence in New Jersey electric or gas public utilities. The

proposed amendments also clarify the rules and make reporting requirements more specific, thus reducing the potential burden on the regulated community while preserving essential notice to the Board.

The readoption of the Board's licensing and registration rules for energy suppliers will have a positive social impact because it will continue important Board oversight of entities that supply vital energy services to New Jersey customers. The proposed amendments will better ensure compliance with the licensing and registration requirements. The readoption of the Board's government energy aggregation program rules will have a beneficial social impact because the rules will continue to provide an opportunity for local government entities to obtain affordable energy through economies of scale. The readoption of the Board's retail choice consumer protection rules, **along with the proposed requirements related to TPS billing errors**, will have a positive social impact, because they will continue requirements that ensure responsible and fair treatment of consumers in the areas of advertising, marketing, contracts and billing.

Economic Impact

The readoption of the Board's energy competition rules will have an overall positive economic impact by continuing to encourage competition in energy supply services. The energy anti-slamming rules impose some costs on TPSs, in that a TPS verify the enrollment of each customer. Slamming itself results in costs - it can cause financial problems for customers, and results in TPS expenditures on discovering and correcting the unauthorized switches. Therefore, the Board believes that the cost of compliance with the anti-slamming provisions is justified to prevent the costs of slamming.

The readoption of the affiliate relations rules will have an overall positive economic benefit. The costs incurred by electric and gas utilities in complying with the affiliate relations rules should be minimal, and mainly will be related to recordkeeping and reporting. Furthermore, those costs that the Board determines are reasonable will be recoverable through utility rates. Most importantly, the rules help to prevent cross-subsidization or deterioration of the financial condition of public utilities, which might occur as a result of a public utility's affiliation with non-regulated entities. The financial soundness of public utilities is important .

The readoption of the PUHC rules will continue to help minimize operating costs for New Jersey electric and gas public utilities. The ownership of New Jersey electric or gas public utilities by public utility holding company systems creates unique problems that require specific regulatory oversight. First, public utility holding company system investments in non-utility businesses may lead to utility ratepayer subsidies of non-utility services. Second, the acquisition of a utility by a public utility holding company system can affect the incentives of utility managers, as new managers may have priorities other than local utility service and may lack the State-specific and utility experience necessary to ensure the provision of safe, adequate and proper service at just and reasonable rates. Third, if the electric or gas public utility's credit ratings decline as a result of activities by the public utility holding company system, the compensation demanded by providers of capital can increase. Consequently, to the extent that any New Jersey electric or gas public utility may be harmed by its public utility holding company system, the rules reduce the operating costs of the New Jersey gas or electric public utility. The amendments proposed to the PUHC rules are likely to reduce the reporting burden on public utilities and public utility holding companies, and to reduce the cost of complying with the reporting requirements of the rules. The amendments will also reduce Board administrative costs by minimizing the submittal of unnecessary notices.

The readoption of the licensing and registration rules at N.J.A.C. 14:4-5 will have a positive economic impact in that it will continue a program that ensures that all third-party suppliers and related entities are viable businesses and have adequate financial resources and stability to protect energy consumers. The largest cost resulting from the licensing and registration rules is the cost of the surety bonds. However, the \$250,000 licensing surety bond is a statutory requirement, instituted to ensure stability and financial viability of players in the energy supply market. Customers depend on energy for a multiplicity of crucial functions, ranging from residential medical devices to key manufacturing tasks. It is essential that entities that supply energy have the stability and financial viability to carry through on their obligations to their customers.

The readoption of the government energy aggregation rules will continue a program whereby a local government entity may obtain energy for itself and/or its residents and businesses at competitive prices, resulting in an economic advantage for participants. .Therefore, the Board believes the government aggregation programs have a potential for a positive economic impact on customers. Additionally, when a TPS successfully bids on an energy aggregation program, the TPS receives a positive economic benefit through short-term profit margins and long-term name recognition.

The readoption of the retail choice consumer protection standards, along with the proposed requirements related to TPS billing errors, will have a positive economic impact on customers. The rules will continue requirements that ensure that all TPSs adhere to a uniform set of consumer protection practices. The requirements do come with some costs on TPSs. However, the fact that the rules govern all TPSs will prevent unfair competitive practices among TPSs that could have long-term negative economic impacts on the entire TPS community.

Federal Standards Statement

Executive Order No. 27 (1994) and [N.J.S.A. 52:14B-22](#) through 24 require State agencies that adopt, readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The following subchapters are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements: energy anti-slamming, energy licensing and registration, government energy aggregation programs, public utility holding company standards and consumer protection. Accordingly, Executive Order No. 27 (1994) and [N.J.S.A. 52:14B-1](#) et seq. do not require a Federal standards analysis for these sections of the rules proposed for re Adoption with amendments and a new rule.

The affiliate relations rules are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards or Federal requirements. The Energy Policy Act of 2005 governs affiliate transactions, service agreements and access to the books and records of public utility holding companies. While the Board's affiliate relations rules are more specific than the Federal provisions, neither is clearly more stringent than the other. The Federal law provides states with broad power to prevent cross-subsidization and to issue "such rules and regulations as are necessary or appropriate for the protection of utility consumers." To the extent that the specificity of the Board's rules may render them more stringent, the Board believes such stringency is justified by the potential for abuse of a public utility by a holding company or other affiliate, as amply demonstrated by recent events in the public utility industry.

Jobs Impact

The Board does not anticipate that the proposed readoption with amendments and a new rule of Chapter 4 will have a material impact on jobs in New Jersey. The rules will continue existing programs that require the use of workers to implement procedures to protect customers from slamming and consumer fraud and abuse, including recordkeeping and reporting. While a regulated entity may need staff to ensure compliance with the rules, the amount of staff time required is minimal and any staff needed will already be in place as the rules have been in effect for some time.

Agriculture Industry Impact

The readoption with amendments and a new rule of Chapter 4 is not likely to have an impact on the agriculture industry in New Jersey. The rules apply Statewide and they are not expected to affect agriculture any differently from other energy consumers.

Regulatory Flexibility Analysis

The proposed readoption with amendments and a new rule of [N.J.A.C. 14:4](#) will impose minimal recordkeeping, reporting or other compliance [page=1157] requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq., is a business that has fewer than 100 full-time employees.

Some of the TPSs affected by the readoption with amendments of the anti-slamming rules may qualify as small businesses. The rules will impose some recordkeeping, reporting and other compliance requirements on these small businesses, in that the readoption will continue the requirement that TPSs use certain procedures for switching customers, and for verifying the accuracy of customer switches, as discussed in the Summary above. The proposed amendments will slightly decrease reporting requirements and slightly increase the level of detail required in

third-party verifications. In addition, the option for TPSs to perform their own verifications will likely reduce the compliance burden. Therefore, the amendments taken together will not increase existing compliance requirements overall. The compliance requirements of these rules are justified by the magnitude of the slamming problem that occurred prior to the adoption of anti-slamming rules. Furthermore, unauthorized switching is no less of a problem when perpetrated by a small TPS than a large one. Therefore, the Board has not provided special provisions for small businesses.

The affiliate relations rules apply only to regulated electric and gas public utilities and their public utility holding companies, none of which qualify as a small business under the New Jersey Regulatory Flexibility Act, as they all employ more than 100 full-time employees.

The licensing and registration rules proposed for readoption require TPSs, energy agents, private aggregators, and energy consultants to be licensed or registered. Some of these entities are small businesses. These entities are required to keep summary records in a form accessible to Board staff. Both electric power and gas suppliers must supply their previous year's New Jersey energy sales for an initial application and with annual information update form filings. Any entity that wishes to market to residential customers must file a copy of its standard contract with Board staff. It is not anticipated that any entity would find it necessary to engage any professional services to comply with these rules. These rules are important to ensure that energy suppliers are responsible and financially sound, and the rules would have the same impact upon all entities that enter the New Jersey market. Accordingly, the Board has not provided special provisions applicable to small businesses.

The government energy aggregation rules will govern municipalities, counties and TPSs. Some of the TPSs who bid to supply energy or are selected to supply energy under an aggregation

program may qualify as small businesses. In the event that a small business TPS is selected, that TPS will have to comply with the same rules as a larger TPS. This will include keeping records of the customers in the program and complying with all terms of the contract during formation and execution of the program. However, participation by the TPS is voluntary, and it is not anticipated that any TPS would find it necessary to engage any professional services to comply with these rules. Furthermore, the Board sees no reason to distinguish among TPSs based upon their size.

The consumer protection rules proposed for re adoption at N.J.A.C. 14:4-7 require TPSs to adhere to minimum requirements regarding marketing, advertising, contracts and billing. It is not anticipated that any entity would find it necessary to engage any professional services to comply with these rules. These rules are important to ensure that energy suppliers provide consumers with complete and accurate information regarding the energy they offer and provide. Accordingly, the Board has not provided special provisions for small businesses.

Housing Affordability Impact

The rules proposed for re adoption with amendments and a new rule will have no impact on affordable housing in New Jersey because the scope of the rules is limited to addressing the regulation of the competitive energy market. While conditions in the energy market may slightly affect housing prices indirectly, these rules are designed to minimize energy prices through competition. Therefore, if there is any impact on housing affordability, it will be positive.

Smart Growth Development Impact

The rules proposed for re adoption with amendments and a new rule will have no impact on smart growth in New Jersey because the scope of the rules is limited to addressing the regulation of the competitive energy market. There is an extreme unlikelihood that the rules would evoke a

change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the competitive energy market does not affect the location of housing construction, and has only a slight indirect impact on the housing market. Any such impact will be to minimize the cost of energy and will apply uniformly Statewide.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

This rulemaking will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at [N.J.A.C. 14:4](#).

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

14:4-1.1 Applicability and scope

(a) -(e) (No change.) 14:4-1.2 Definitions

The following words and terms, when used in this chapter or in N.J.A.C. 14:8, Renewable Energy and Energy Efficiency, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

...

"Gas supplier" or **"natural gas supplier"** means a person that is licensed by the Board under EDECA to offer or provide gas supply service to retail customers. This term includes, but is not limited to, marketers and brokers, as defined herein. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or its subsidiary is not a gas supplier. If a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards at N.J.A.C. 14:4-3.

...

"PJM Interconnection, L.L.C." or "PJM" means the regional transmission organization (RTO) that coordinates the movement of wholesale electricity in the PJM region, as defined in this section. Additional information regarding PJM and its subsidiaries can be found at [<http://www.pjm-eis.com/index.html>] <https://www.pjm.com/>.

...

"Preferred supplier freeze" is an election made by a customer to restrict any future switch from one provider of electric generation service or gas supply service to another provider.

...

"Slamming" means switching a customer from one TPS or LDC (for electric generation service or gas supply service) to another TPS, without obtaining authorization from the customer in accordance with this [sub]chapter.

...

SUBCHAPTER 1A. (RESERVED)

SUBCHAPTER 2. ENERGY ANTI-SLAMMING

14:4-2.1 Scope

(a)-(d) (No change.)

14:4-2.2 Definitions

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

(No change.)

14:4-2.3 Change order required for switch

(a)-(h) (No change.) 14:4-2.4 Signing up or switching customers electronically

(a)-(j) (No change.)

14:4-2.5 Recordkeeping

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

14:4-2.6 LDC notice to customer of a change order

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

(d) When an electric or gas public utility receives a change order from a TPS to switch the energy supplier of a customer who has a preferred supplier freeze in place pursuant to N.J.A.C. 14:4-2.6A, the electric or gas public utility shall reject the enrollment and notify

the customer that it received a change order which was rejected due to a preferred supplier freeze being in place. This notice shall:

1. Be sent in writing, within one (1) business day after the LDC receives the change order.

2. Notify the customer of the name of the supplier that submitted the switch; and

3. Notify the customer how to contact the LDC should the customer wish to lift the preferred supplier freeze.

[(d)] (e)-(f) (No change in text.)

[(f)] (g) The LDC shall execute all TPS change orders that comply with this subchapter and all requests from customers to switch from a TPS to the LDC without unreasonable delay to meet the timeframes described in this subsection, or, when deemed reasonable to do so by the LDC, to result in a switch that occurs sooner than would be required under the following timeframes.

1.-3. (No change.)

4. The provisions in [(f)](g)1 through 3 above shall apply to all customer enrollment or drop requests that are received by an LDC on or after January 17, 2018.

14:4-2.6A Preferred supplier freeze

(a) A customer may elect to implement or lift a preferred supplier freeze for the provision of electric generation or gas supply service by notifying their electric or gas public utility of the request.

(b) A customer's authorization to implement or lift a preferred supplier freeze shall be submitted to and executed by their electric or gas public utility without the influence of a TPS or an agent operating on behalf of a TPS. A TPS or an agent operating on

behalf of a TPS shall not request the implementation or lifting of a preferred supplier freeze on behalf of a customer.

- (c) An electric or gas public utility that receives a request from a customer to implement or lift a preferred supplier freeze shall note this election on the customer's account within one (1) business day of receiving the request and shall notify the customer in writing that the preferred supplier freeze has been implemented or lifted within two (2) business days of receiving the request.**
- (d) An electric or gas public utility shall not switch a customer's electric generation service or gas supply service provider if the customer has a preferred supplier freeze in place.**
- (e) A customer's authorization to implement or lift a preferred supplier freeze does not satisfy the requirement for a separate verified authorization to make a switch to a TPS. Therefore, if a customer has a preferred supplier freeze in effect and wishes to switch suppliers, the following shall apply:**

 - 1. The customer shall provide the electric or gas public utility with authorization to lift the preferred supplier freeze.**
 - 2. If the customer wishes to switch to a TPS, the TPS shall obtain authorization for the switch in accordance with N.J.A.C. 14:4 – 2.3 Change order required for switch; or**
 - 3. If the customer wishes to switch from a TPS to an electric or gas public utility, the customer shall provide the electric or gas public utility with authorization for the switch.**

- (f) When an electric or gas public utility receives a change order from a TPS to switch a customer's electric generation service or gas supply service provider and the customer has a preferred supplier freeze in place, the electric or gas public utility shall reject the enrollment and notify the TPS of the reason for the rejection through an EDI transaction, or through another electronic information exchange system with equivalent speed and security.**
- (g) All electric and gas public utilities shall permit preferred supplier freezes on a nondiscriminatory basis to all customers, regardless of the customer's electric and gas supplier selections.**
- (h) All electric and gas public utilities and TPSs shall treat customers on a nondiscriminatory basis, regardless of whether or not the customer implements a preferred supplier freeze. Suppliers shall not offer different rates or services to a customer based on whether or not the customer elects to implement a preferred supplier freeze.**
- (i) Any information provided to customers pertaining to preferred supplier freezes, either verbally or in writing, shall clearly set forth the following:**
- 1. A clear and neutral statement that the customer may opt to freeze either a TPS or the electric or gas public utility as their supplier;**
 - 2. An explanation, in clear and neutral language, of what a preferred supplier freeze is and what services may be subject to a freeze. This should include an explanation that the customer will be unable to make a change in their supplier selection unless the customer contacts the electric or gas public utility to lift the preferred supplier freeze;**

- 3. A description of the specific procedures necessary to implement or lift a preferred supplier freeze, including that the customer must request to implement or lift the preferred supplier freeze directly from the electric or gas public utility. The description should include an explanation that these steps are in addition to the verification rules at N.J.A.C. 14:4-2.3;**
 - 4. An explanation that a customer may only implement a preferred supplier freeze for the customer's current supplier; and**
 - 5. An explanation that separate authorizations are required to implement and/or lift a preferred electric supplier freeze and a preferred gas supplier freeze, and that a customer may opt to freeze one, both, or neither of these options.**
- (j) An electric or gas public utility shall not implement or lift a preferred supplier freeze unless:**
- 1. The electric or gas public utility implementing or lifting a preferred supplier freeze has confirmed the customer's request to impose or lift the freeze in accordance with one of the following procedures:**
 - i. The electric or gas public utility has obtained the customer's written or electronically signed authorization, which must be on a form with sufficient size and readable type to be clearly legible;**
 - ii. The electric or gas public utility has obtained the customer's verbal authorization stating the customer's intent to impose or lift a preferred supplier freeze. For this purpose, the electric or gas public utility shall use the same methods that it presently uses to verify that an individual is the customer of record or authorized to make changes to the utility account.**

2. **The electric or gas public utility implementing or lifting a preferred supplier freeze has confirmed:**
 - i. **The customer's name, address, and account number;**
 - ii. **The type of preferred supplier freeze the customer would like to change (either preferred electric supplier freeze or gas supplier freeze) and whether the customer is requesting to implement or lift the preferred supplier freeze; and**
 - iii. **That the customer understands that he or she will be unable to switch suppliers for that particular service unless the customer lifts the freeze.**

14:4-2.7 Slamming complaints and investigation

(a)-(f) (No changes.) 14:4-2.8 Enforcement

(a)-(e) (No changes.)

SUBCHAPTER 3. AFFILIATE RELATIONS

14:4-3.1 Scope

(a) This subchapter shall apply as follows:

1. N.J.A.C. 14:4-3.3 through 3.5 set forth standards of conduct applicable to transactions, **interactions, and relationships** between an electric public utility or gas public utility, including a related competitive business segment of an electric or gas public utility, and a related competitive business segment of the electric or gas public utility holding company providing or offering competitive services to retail customers in New Jersey or the public

utility holding company itself providing or offering competitive services to retail customers in New Jersey;

2.-3. (No change.)

(b) (No change.)

14:4-3.2 Definitions

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

...

"Fully allocated cost" means an allocation of the direct, indirect and other economic costs of all equipment, vehicles, labor, related fringe benefits and overheads, real estate, furniture, fixtures and other **personal and administrative** [personality and administration] **assets** utilized, and other assets utilized and costs incurred, directly or indirectly in providing competitive services.

...

"Public utility holding company" or "PUHC" means:

1. Any company, **including, but not limited to, a private equity/private equity investment funds and/or a private entity, or partnership** that, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company that is a public utility holding company by virtue of this definition, unless the Federal Energy Regulatory Commission (FERC), or its successor, by order, declares such company not to be a public utility holding company under Title XII, Subtitle F of the Energy Policy Act of 2005 (known as the Public

Utility Holding Company Act of 2005), Pub. L. No. 109-58, §§ 1261-77, 42 U.S.C. §§ 15801 et seq. (2005), or its successor. **This definition includes any private equity/private equity investment fund and/or private entity or partnership that solely or jointly purchases, acquires, merges with an electric public utility or gas public utility and whose public shares are delisted from the public exchange is a holding company and is treated in the same manner as a public utility holding company by FERC or its successor or the Board;** or

2. Any person that the FERC, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 2005 or its successor.

...

14:4-3.3 Nondiscrimination

(a)-(s) (No change.)

14:4-3.4 Information disclosure

(a)-(k) (No change.)

14:4-3.5 Separation

(a)-(u) (No change.)

14:4-3.6 Competitive products and/or services offered by a utility or related competitive business segments of a utility

(a)-(y) (No change.)

14:4-3.7 Regulatory oversight

(a) (No change.)

(b) Said compliance plan shall demonstrate that there are adequate procedures in place to ensure compliance with this subchapter and shall include the electric and/or gas public utility's dispute resolution procedure pursuant to N.J.A.C. 14:4-3.8(a).

1. Said compliance plan shall contain an accurate list of all affiliates of an electric and/or gas public utility **and the public utility holding company**, including the business name and address, name and business telephone number of at least one officer of each affiliate and a brief description of the business of each affiliate.

i. The information required by (b)1 above shall be updated within five business days of any change(s) thereto, and a public posting of the information shall also be made within that time period.

(c)-(f) (No change.)

14:4-3.8 Dispute resolution

(a)-(d) (No change.)

14:4-3.9 Violations and penalties

(a) (No change.)

(b) If, as a result of an audit conducted pursuant to N.J.A.C. 14:4-3.7(e) through (g) or by any other means, the Board determines, after providing the electric and/or gas public utility notice of a public hearing and an opportunity to be heard, that an electric and/or gas public utility has committed violations of N.J.A.C. 14:4-3.3, 3.4, 3.5, 3.7 or 3.8, which are substantial in nature so as to result in unfair [competetive]**competitive** advantages for an electric or gas public utility, the Board is authorized to take some or all of the following actions:

1.-4. (No change.)

APPENDIX

SECTION 1. Timing and Review

1. Time for Filing of Petition

a.-b. (No change.)

2. Conditions for Review

a. (No change.)

SECTION 2. Petition Filing and Confidentiality

1. Required Petition Contents

a. Said Petition shall include the following to show that the competitive service offering(s) will not impair the EDC/GDC's ability to provide safe, adequate and proper service and that the service shall be offered on a non-discriminatory basis:

i.-viii. (No change.) ix. The derivation of the proposed charge(s) for each competitive service offering, which shall include calculations, working papers, statistical data and other information utilized. Said proposed charge(s) should exceed the fully allocated current cost of providing the proposed competitive service offering(s), which shall include **but not be limited to** the current cost of all equipment, vehicles, labor, fringe benefits, and overheads and administration expenses, other assets utilized and costs incurred, directly or indirectly, all current promotional, advertising and marketing costs, and the current fully-loaded labor cost of management involved with this proposed competitive service offering(s);

x.-xi. (No change.) xii. A comparison of **the proposed EDC/GDC hourly charges, including service charges and other charges, to the following other purveyors offering** [with those of other EDC/GDCs and independent contractors for] the same type(s) of service[and specifically provide service charges for the following]:

1.-4. (No change.) ;

; and

5. Any New Jersey EDC/GDC that offers the proposed competitive services offering(s) outside of []**Petitioners** franchise area;

xiii.- xix (No change.)

2. Petition Confidentiality

a. (No change.)

SUBCHAPTER 4. PUBLIC UTILITY HOLDING COMPANY (PUHC) STANDARDS

14:4-4.1 Scope

This subchapter sets forth requirements that apply to electric and/or gas public utilities that operate in New Jersey and are owned by a public utility holding company. The subchapter is intended to protect New Jersey utility ratepayers from the risks presented by the ownership of a New Jersey electric or gas public utility by a public utility holding company.

14:4-4.2 Definitions

(a) (No change.)

(b) (No change.)

14:4-4.3 Asset investments

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

14:4-4.4 Access to information

(a)-(l) (No change.)

(m) All information provided to the Board and Board Staff in this section and pursuant to N.J.A.C. 14:3-6.3 will be treated as public. Any confidential information provided to the Board and Board Staff shall be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.1 et seq. All information provided to the Board and its staff in an unredacted manner or not labeled as confidential and not approved by the Board as confidential prior to calendar year 2023 shall remain public.

14:4-4.5 Service agreements

(a)-(j) (No change.)

14:4-4.6 Structural separation

(a)-(d) (No change.)

14:4-4.7 Operational separation

(a)-(h) (No change.)

SUBCHAPTER 5. ENERGY LICENSING AND REGISTRATION

14:4-5.1 Scope; general provisions

(a)-(i) (No change.)

(j) Applications, forms, and information relating to this subchapter may be obtained at:

New Jersey Board of Public Utilities

ATTN: Division of Audits/Licensing

44 South Clinton Avenue, 9th Floor

PO Box 350

Trenton, New Jersey 08625-0350

<https://www.nj.gov/bpu/> or <https://nj.gov/bpu/about/divisions/energy/thirdparty.html>

See the BPU website for further contact information regarding licensing.

(k)-(m) (No change.)

14:4-5.2 Basic requirements for an electric power supplier or gas supplier license

(a)-(g) (No change.)

14:4-5.3 Application contents--initial electric power supplier or gas supplier license

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

14:4-5.4 Board review procedure for an initial application for an electric power supplier or gas supplier and for an Annual Information Update Form

(a)-(e) (No change.)

(f) Within 60 days of filing an initial application, but no later than two weeks prior to the approval date of the application, the applicant shall submit [a] **the** surety bond(s) [for] **in** the amount of \$ 250,000 for **each** [an] electric power supplier license or gas supplier license. **The**

surety bond(s) shall insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to customers to deliver electric generation service or gas supply service.

(g) (No change.)

(h) The Board may grant a modification of the surety bond amount(s) for the initial license, if the applicant submits substantial evidence in support of the modification. Any modification shall be commensurate with the amount of anticipated business to be conducted in New Jersey. A request for modification of the initial license bonding amount(s) shall be made in conjunction with the initial application.

(i) Thirty days prior to the expiration of [the] a surety bond, a licensee must file a renewed surety bond for at least the next annual period.

(j) (No change.)

14:4-5.5 Requirements that apply after a license or registration is issued

(a)-(e) (No change.)

(f) A licensee or energy consultant shall maintain the surety bond(s) required under N.J.A.C.

14:4-5.4 and 5.11 throughout the duration of the license or registration. The Board may increase the bond amount(s) required by **N.J.A.C. 14:4-5.4(f) and 5.11(b)** if the Board determines that an increase is necessary to protect the interests of the ratepayers of New Jersey. A licensee shall report to Board staff at any time when its sales volume has increased by 33 percent from its previously reported amount, and the Board may increase its surety bond(s) accordingly.

(g)-(h) (No change.)

(i) If a licensee or registrant reorganizes, restructures, merges with another entity, acquires another company, or is acquired by another company, the following requirements shall apply:

1. (No change.) ;

2. If the resulting company does not retain the name of the original licensee or registrant, the new entity shall submit an application for a new license or registration in accordance with this subchapter within 30 calendar days after the reorganization, restructuring, merger, or acquisition, and shall meet all of the requirements that would apply if the entity had never held a license or registration, including application fees and, for licensees and energy consultants, the issuance of [a] new surety bonds, **as applicable**; and

3. (No change)

(j) (No change.) **(k) At the request of licensee a surety bond, as required by N.J.A.C. 14:4-5.4(f), may be returned when the associated electric power supplier license or gas supplier license has expired, been withdrawn, or other applicable situation as deemed acceptable by Board Staff, provided the following conditions are met:**

1. The licensee shall provide Board staff with a business tax clearance certificate issued by the New Jersey Department of Treasury; and 2. There shall be no outstanding in-state customer complaints or investigations against the licensee.

14:4-5.6 Term and expiration of an electric power supplier or gas supplier license

(a)-(e) (No change.) (f) If Board staff notifies an LDC in writing that a supplier or marketer that is serving customers in the LDC's service territory does not have a valid license under this subchapter, or does not have the required surety bond(s), the LDC shall, within one business day after said notice, stop doing business with the supplier or marketer, except pursuant to any specific instructions of Board staff. This subsection shall apply regardless of whether the person has never had a license; a license has expired; or a license has been denied, suspended or revoked.

14:4-5.7 Required contents of the Annual Information Update Form of an electric power supplier or gas supplier license

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

(d) An Annual Information Update Form for an electric power supplier or gas supplier license shall include the following types of information:

1.-5. (No change.) ;

6. Documentation that the licensee has maintained and continues to maintain the surety bond(s) required under this subchapter;

7.-10. (No change.)

(e)-(h) (No change.)

14:4-5.8 Initial registration procedure--energy agent or private aggregator

(a)-(j) (No change.)

14:4-5.9 Registration annual information update--energy agent, energy consultant, or private aggregator

(a)-(f) (No change.)

14:4-5.10 LDC responsibilities

(a) (No change.)

(b) Except pursuant to N.J.A.C. 14:4-5.6(b) or (d), an LDC shall not accept, or contract for acceptance of, either of the following from a person, unless the person has a valid license issued under this subchapter, including the required surety bond(s):

1.-2. (No change.)

(c)-(d) (No change.)

14:4-5.11 Registration procedure--energy consultant

(a)-(f) (No change.)

14:4-5.12 Fees

(a) Fees for license applications and registrations shall include both refundable and nonrefundable components as follows:

	Electric Power Supplier License	Gas Supplier License	Energy Agent, Private Aggregator, and/or Energy Consultant Registration
Nonrefundable Initial Application Fee	[\$250.00]	[\$250.00]	[\$500.00]
	\$350.00	\$350.00	\$750.00
Initial License Fee refunded if license is denied	[\$1,000.00]	[\$800.00]	\$0
	\$1,500.00	\$1,200.00	
Nonrefundable Annual Information Update Fee	[\$500.00]	[\$400.00]	[\$200.00]
	\$750.00	\$600.00	\$300.00

(b) If an applicant applies for more than one license, the applicant shall submit the application fees for both licenses. For example, the application fee for both an electric power supplier license and a gas supplier license would be \$ 2,300. Similarly, an applicant that applies for more than one license shall post a **separate** surety bond **for each license as** [the sum of the applicable amounts] required at N.J.A.C. 14:4-5.4(f). For registrants, the application fee remains the same if an applicant applies for one, two, or all three registrations. For example, an initial fee for an Energy Agent would be \$ 500.00 and the initial fee for an Energy Agent and Energy Consultant would be \$ 500.00 as well.

14:4-5.13 Enforcement

(a)-(d) (No change.)

SUBCHAPTER 6. GOVERNMENT ENERGY AGGREGATION PROGRAM

14:4-6.1 Scope

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

14:4-6.2 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 **and 14:4-2.2** shall apply to this subchapter, unless the context clearly indicates otherwise.

(No change.)

14:4-6.3 General provisions

(a)-(h) (No change.)

(i) If a residential customer is located within the geographic boundaries of a municipality or county that establishes a government-private energy aggregation program, the residential customer shall automatically be included in the program unless the customer indicates **their** [his or her] desire not to participate in the program by opting-out in accordance with N.J.A.C. 14:4-6.5 and 6.6. **All elections to opt-out shall be considered permanent with respect to the**

program(s) of which the customer has opted out unless, and until, the customer later affirmatively elects to opt-in to the respective program in the manner(s) set forth by the aggregator.

(j)-(l) (No change.)

14:4-6.4 Municipal and/or county energy aggregation programs

(a)-(d) (No change.)

(e) There are two types of government-private energy aggregation programs, as follows:

1. An Option 1 government-private energy aggregation program. An Option 1 program has the following characteristics:

i. The program automatically includes all residential customers in each participating municipality unless:

(1) The residential customer has contracted for service with a TPS prior to establishment of the program; or

(2) The residential customer opts-out, as defined at N.J.A.C. 14:4-6.2, of the program; or

(3) The residential customer has a preferred supplier freeze with the LDC.

ii. The program may, at each participating municipality's discretion, include non-residential customers, as defined at N.J.A.C. 14:4-6.2, if the non-residential

customers are located within the geographic boundaries of the participating municipality and opt-in, as defined at N.J.A.C. 14:4-6.2, to the program;

iii. The LDC is responsible for notifying residential customers of their option to participate in the program or to opt-out, and of notifying non-residential customers of the right to opt-in. All elections to opt-out shall be considered permanent unless, and until, the customer who elected to opt-out later elects to opt-in to the respective program in the manner(s) set forth by the aggregator. This notice shall be provided prior to the advertisement for the receipt of bids for a TPS; and

iv. The LDC shall be the option administrator, as defined at N.J.A.C. 14:4-6.2; and

2. An Option 2 government-private energy aggregation program. An Option 2 energy aggregation program has the following characteristics:

i. The program automatically includes all residential customers in each participating municipality unless:

(1) The residential customer has contracted for service with a TPS prior to establishment of the program; or

(2) The residential customer opts-out of the program; or

(3) The residential customer has a preferred supplier freeze with the LDC.

ii. The program may, at each participating municipality's discretion, include non-residential customers that:

(1) Are located within the geographic boundaries of the participating municipality; and

(2) Opt-in in accordance with N.J.A.C. 14:4-6.6; and

iii. The following duties shall be performed either by the lead agency or by the participating municipalities:

(1) Notifying residential customers of their option to participate in the program or to opt-out. All elections to opt-out shall be considered permanent unless, and until, the customer who elected to opt-out later affirmatively elects to opt-in to the respective program in the manner(s) set forth by the aggregator. This notice shall be provided after a TPS is selected;

(2) Issuing a public notice to alert non-residential customers of their eligibility to participate in the program by opting-in; and

(3) Acting as the option administrator, as defined at N.J.A.C. 14:4-6.2.

[(e)] **(f)** A municipality or county may choose to include appliance repair services in its energy aggregation program. These services may be obtained for government use or, in a government-private energy aggregation program, for use by residential and/or nonresidential customers. However, appliance repair services shall be provided only to residential and non-residential customers that affirmatively choose to obtain these services through the energy aggregation program. Potential customers shall be advised of the option to obtain these services through the energy aggregation program as follows:

1.-2. (No change.)

[(f)] **(g)** The lead agency of a government-private energy aggregation program shall be a municipality or county. If the lead agency in an energy aggregation program is not a municipality

or county, the program shall not include any municipality or county that operates a government-private energy aggregation program.

[(g) There are two types of government-private energy aggregation programs, as follows:

1. An Option 1 government-private energy aggregation program. An Option 1 program has the following characteristics:

i. The program automatically includes all residential customers in each participating municipality unless:

(1) The residential customer has contracted for service with a TPS prior to establishment of the program; or

(2) The residential customer opts-out, as defined at N.J.A.C. 14:4-6.2, of the program;

ii. The program may, at each participating municipality's discretion, include non-residential customers, as defined at N.J.A.C. 14:4-6.2, if the non-residential customers are located within the geographic boundaries of the participating municipality and opt-in, as defined at N.J.A.C. 14:4-6.2, to the program;

iii. The LDC is responsible for notifying residential customers of their option to participate in the program or to opt-out, and of notifying non-residential customers of the right to opt-in. This notice shall be provided prior to the advertisement for the receipt of bids for a TPS; and

iv. The LDC shall be the option administrator, as defined at N.J.A.C. 14:4-6.2; and

2. An Option 2 government-private energy aggregation program. An Option 2 energy aggregation program has the following characteristics:

i. The program automatically includes all residential customers in each participating municipality unless:

(1) The residential customer has contracted for service with a TPS prior to establishment of the program; or

(2) The residential customer opts-out of the program; **or**

ii. The program may, at each participating municipality's discretion, include non-residential customers that:

(1) Are located within the geographic boundaries of the participating municipality; and

(2) Opt-in in accordance with N.J.A.C. 14:4-6.6; and

iii. The following duties shall be performed either by the lead agency or by the participating municipalities:

(1) Notifying residential customers of their option to participate in the program or to opt-out. This notice shall be provided after a TPS is selected;

(2) Issuing a public notice to alert non-residential customers of their eligibility to participate in the program by opting-in; and

(3) Acting as the option administrator, as defined at N.J.A.C. 14:4-6.2.]

(h)-(i) (No change.) (j) All documents submitted to the Board and Rate Counsel in compliance with this subchapter, shall be submitted as follows:

1. One hard copy of the documents shall be submitted to each of the following people: the Secretary of the Board, the Director of the Division of **Revenue and Rates**

[Energy], and the Director of the Division of Customer Assistance. These copies shall be sent to the following mailing address: Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, PO Box 350, Trenton, NJ 08625-0350;

2.-4. (No change.)

(k)-(l) (No change.)

14:4-6.5 Establishing an Option 1 government-private energy aggregation program

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

(d) The notice required under (c) above shall be sent to customers as follows:

1. The LDC shall send the notice required under (c) above to all residential electric and gas customers within the geographic boundaries of each participating municipality that are receiving BGS or BGSS from the LDC or are being served by a third-party supplier through an expiring government energy aggregation program, except residential customers who have advised the municipality, the lead agency, or the selected supplier during the current, or a previous government energy aggregation program, that they prefer to be excluded from all government energy aggregation programs[.], **and except gas customers who have a preferred gas supplier freeze in place and electric customers who have a preferred electric supplier freeze in place.**

2.-3. (No change.)

(e) (No change.)

(f) The notice to customers required under (c) above shall include the following:

1.-2. (No change.) ;

3. If the notice is to a residential customer, a statement that, should the residential customer submit an opt-out response, that opt-out response shall be considered permanent if, and until, the residential customer submits a written opt-in request to the LDC.

4[3]. If the notice is to a non-residential customer, a statement that the customer has a right to opt-in to the program, but that if no opt-in response is submitted the customer will not be included in the program;

5[4]. If the notice is to a non-residential customer, a statement that by choosing to opt-in to the program, the customer has authorized the participating municipality or lead agency to obtain the non-residential customer's 12-month historical usage information;

6[5]. A requirement that any opt-out or opt-in response be submitted to the option administrator within 30 calendar-days after the postmark on the notice;

7[6]. Directions on how to submit an opt-in or opt-out response;

8[7]. A telephone number and e-mail address for customer inquiries regarding the energy aggregation program; and

9[8]. An explanation that if the notification reaches a customer outside of the geographic boundaries of the participating municipality, the customer should contact the LDC to be removed from the program, and if a residential customer inside the geographic boundaries of

a participating municipality does not receive notice of the program as is required under (c) above, the customer will be permitted to opt-in to the program at any time.

(g)-(r) (No change.)

14:4-6.6 Establishing an Option 2 energy aggregation program

(a)-(t) (No change.)

(u) If a residential customer, **who is sent a notice under this section**, does not submit an opt-out response to the option administrator within 30 calendar-days after the postmark on the notice required under this section, the customer shall be included in the energy aggregation program.

(v)-(w) (No change.)

14:4-6.7 LDC aggregation agreement for government-private energy aggregation programs

(a)-(d) (No change.) .

§ 14:4-6.8 Advertising for bids, contract award

(a)-(h) (No change.)

14:4-6.9 Price requirements for government-private programs

(a)-(h) (No change.)

14:4-6.10 Contents of a contract between a government aggregator and the selected TPS

(a)-(b) (No change.)

14:4-6.11 Notice requirements for changes to active government-private energy aggregation programs

(a)-(b) (No change.)

SUBCHAPTER 7. RETAIL CHOICE CONSUMER PROTECTION

14:4-7.1 Scope

This subchapter shall apply to all electric power suppliers, and gas suppliers. Except where specifically addressing residential customers, the consumer protections contained in this subchapter shall pertain to all customers.

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.

(No change.)

14:4-7.3 Advertising standards

(a)-(e) (No change.)

14:4-7.4 Marketing standards

(a)-(o) (No change.)

14:4-7.5 Credit

(a)-(e) (No change.)

14:4-7.6 Contracts

(a)-(j) (No change.)

(k) Where a TPS contract contains a fixed price element, t[T]he TPS shall provide notice to the customer at least 30 days prior to the [end] expiration of the fixed price for electric generation service or gas supply service [contract], informing the customer of the date upon which the fixed price element of the service contract [term] ends. Where a TPS contract contains both a fixed price element and a variable rate element, including where a TPS contract with a fixed rate defaults to a variable rate at the end of the initial fixed rate contract term, such notice shall also provide an explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public, and the historical variable rate billed by the TPS for the three preceding months.

(l) (No change.)

14:4-7.6A TPS contract summaries

(a) A TPS serving residential customers, or commercial electric customers with a cumulative peak load of 50 kilowatts or less or commercial gas customers with a cumulative peak load of 5,000 therms or less, but not those served through a government energy aggregation program established pursuant to N.J.A.C. 14:4-6, shall provide a TPS Contract Summary of all relevant contract provisions to these customers, along with the TPS contract upon initiation or renewal of service in a standardized format that will be posted under the heading "TPS Contract Summary Standardized Format" on the Board's website, <https://www.nj.gov/bpu/>. The TPS Contract Summary shall at a minimum:

1.-6. (No change.) ;

7. Provide a brief explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public, including an explanation on how weather fluctuations may affect the price of variable rate contracts, **and the historical variable rates billed by the TPS for the three preceding months.**

8.-14. (No change.)

(b)-(d) (No change.)

14:4-7.7 Customer bills

(a)-(d) (No change.)

14:4-7.8 Customer information

(a)-(b) (No change.)

14:4-7.9 Complaints

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

14:4-7.10 Termination of a residential contract by a TPS

(a)-(e) (No change.)

14:4-7.10A Transfer of a residential contract by a TPS

(a)-(b) (No change.)

14:4-7.11 Presentation of New Jersey Sales Tax

(No change.)

14:4-7.12 Fixed rates

(a) (No change.)

14:4-7.13 Penalties

(a)-(b) (No change.)

14:4-7.14 Billing Errors

(a) **When a TPS becomes aware of an incident that causes the TPS to incorrectly bill ten (10) or more of its customers, the TPS shall submit a written report to the Board of Public Utilities. This report shall:**

1. **be sent within five (5) business days of the date the TPS became aware of the incident;**
2. **be sent to the Board Secretary with copies sent to the Director of the Division of Revenue and Rates and the Director of Customer Assistance;**
3. **provide details regarding the impact of the error on the customer bills;**
4. **detail the event that caused the billing error;**
5. **detail the TPS's plans to correct the billing error.**

(b) **A TPS shall pay the customer interest at the rate provided for in N.J.A.C. 14:3-3.5 (d) on any overpayment made by a residential customer due to a billing error, unless the overpayment is fully refunded or credited to the customer's account within two billing cycles after the billing error first appeared on the customer bill. The following shall apply to this provision:**

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1. **1. For purposes of this subsection, "billing error" shall mean a charge to a residential customer in excess of that set forth in the TPS contract; and**
 2. **The period of time constituting "two billing cycles" shall be determined by the billing practices of the public utility in place at the time the TPS**

becomes aware of the error. In no event shall such period be considered to be less than 60 days.

SUBCHAPTER 8 THROUGH 9. (RESERVED)

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