

David E. Haymes, Director, NJDEP, Enforcement and Information Support Element, Site Remediation and Waste Management Program, 401 East State Street, Mail Code 401-06K, PO Box 420, Trenton, NJ 08625-0420. All comments must be submitted within 60 calendar days of the date of publication of this public notice. NJDEP will consider all comments received and may decide to withdraw or withhold consent to the entry of the Consent Decree if comments received disclose facts or considerations that show that the Consent Decree is inappropriate, improper, or inadequate.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS STATE BOARD OF EXAMINERS OF HEATING, VENTILATING, AIR CONDITIONING, AND REFRIGERATION CONTRACTORS Notice of Continuing Education Topics

Take notice that the State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors (Board) has determined the topics that shall be part of continuing education courses taken by licensed master heating, ventilating, air conditioning, and refrigeration contractors (master HVACR contractors) during the 2023 to 2024 biennial renewal period. N.J.A.C. 13:32A-4.1 requires licensed master HVACR contractors to complete five credits of continuing education every biennial renewal period. One hour of continuing education must be in statutes and rules governing the practice of heating, ventilating, air conditioning, and refrigeration. The Board is required to determine the topics required for the remaining four hours.

The Board has determined that one hour shall be in review of the International Mechanical Code, International Fuel Gas Code, and the portions of the International Residential Code addressing Mechanical and Fuel Gas, as amended at N.J.A.C. 5:23-3.20 and 3.22, of which at least 15 minutes shall be in standards set forth in Manual "D" Residential Duct Sizing, Manual "J" Residential Load Calculations, and Manual "S" Residential Equipment Selection. The remaining three hours shall be devoted to any topic relevant to the practice of heating, ventilating, air conditioning, and refrigeration as defined at N.J.A.C. 13:32A-1.2.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES Notice of Action on Petition for Rulemaking Energy, Reliability, and Security N.J.A.C. 14:4-7.6

Petitioner: The Retail Energy Supply Association.

Take notice that on April 13, 2022, the New Jersey Board of Public Utilities (Board) received a petition for rulemaking from the above petitioner, the Retail Energy Supply Association ("RESA" or "Petitioner"). On May 16, 2022, a notice of receipt of the petition was published in the New Jersey Register at 54 N.J.R. 949(b). The Petitioner seeks amendment of the Board's Energy Competition rules, to conform the Board's rule, N.J.A.C. 14:4-7.6(l), to the Clean Energy Act, P.L. 2018, c. 17 (CEA) and allow third-party suppliers (TPSs) to pass through all cost increases related to compliance with future State-mandated Renewable Energy Portfolio Standards (RPS) to customers who are on fixed price contracts that include a material change provision. The Petitioner states that its proposed rule amendment is necessary to prevent a pricing disparity between TPSs and basic generation service providers.

Take further notice that the Board certifies that the petition was duly considered pursuant to law and, after due deliberation, on June 8, 2022, the Board denied the Petitioner's request to amend the Board's Energy Competition rules at its open public session.

In support of its petition, the Petitioner cites the Board's March 9, 2022 Order in Docket Numbers EO19020226 and EO20100654, wherein the Board allowed TPSs to pass through specific RPS cost increases. (See *In re the Verified Petition of the Retail Energy Supply Association Seeking Withdrawal of Staff's Cease and Desist and Refund Instructions Letter And Declaration That Third Party Suppliers Can Pass Through Solar RPS Costs under the Clean Energy Act, P.L. 2018, c. 17* and *In re the Cease and Desist and Refund Instructions Letter of January 22, 2019 to Third Party Suppliers*, BPU Docket Nos. EO19020226 and EO20100654, Order dated March 9, 2022 (March 9, 2022 Order)). In the March 9, 2022 Order, the Board found that a TPS may pass through its cost of its added CEA RPS obligations to its fixed-rate contract customers because the New Jersey Legislature (Legislature) directed these added costs as eligible to be passed through as a matter of law. This is stated by the plain language at N.J.S.A. 48:3-87.d(3)(c) ("the board shall recognize these new [RPS] purchase obligations as a change required by operation of law"). However, the Petitioner notes that the March 9, 2022 Order stated that, "The Board FINDS it unnecessary to address the remainder of the issues raised in [RESA's] Petition, or to address speculative questions around how future changes to New Jersey's RPS, without the language specifically included in the CEA, would be treated."

The Petitioner's proposed amendment would allow TPSs the ability to increase a customer's "fixed" or "firm" contract rates for all subsequent State-mandated RPS changes that increase the TPSs' costs. The Petitioner proposed that this be granted; regardless of whether or not the Legislature explicitly authorizes it by including the legal terms, "change required by operation of law" and "notwithstanding any rule or regulation to the contrary" in applicable legislation.

Under the Electric Discount and Energy Competition Act (EDECA), the Board is required to "[m]aintain adequate regulatory oversight over competitive purveyors of retail power and natural gas supply and other energy services to ensure that consumer protection safeguards inherent to traditional public utility regulation are maintained, without unduly impeding competitive markets." See N.J.S.A. 48:3-50.a(5). In accordance with the EDECA, the Board promulgated several consumer protection rules at N.J.A.C. 14:4-7, including rules governing contracts between the customer and the TPS, N.J.A.C. 14:4-7.6, contract summaries, N.J.A.C. 14:4-7.6A, and fixed rates, N.J.A.C. 14:4-7.12. Notably, the rules establish that if a TPS signs up a customer or renews a customer for a rate that the TPS characterizes as "fixed" or "firm," or the TPS uses other language to describe the rate as "not variable," the TPS may not charge the customer a rate that is higher than the fixed rate during the period for which it is fixed, except as permitted at N.J.A.C. 14:4-7.6(l), without the customer's affirmative consent. N.J.A.C. 14:4-7.12.

N.J.A.C. 14:4-7.6(l) states:

The contract may not include provisions (sometimes referred to as "material change notices") that permit the TPS to change material terms of the contract without the customer's affirmative authorization unless the change is required by operation of law. "Material terms of a contract" include, but are not limited to, terms regarding the price, deliverability, time period of the contract, or ownership of the gas or electricity... Changing the price to reflect a change in the Sales and Use Tax or other State-mandated charge would be permitted as a change required by operation of law.

Allowing TPSs to increase fixed rates as a result of mandated obligations would change the fixed rate contract(s), that benefit the customer, to adjustable rate contract(s) that benefit the TPS. In the March 9, 2022 Order, the Board found that a TPS may pass through its cost of its added CEA RPS obligations to its fixed-rate contract customers because the Legislature directed these added costs as eligible to be passed through as a matter of law. Further, the March 9, 2022 Order noted it would be "speculative" to resolve how "future changes to New Jersey's RPS, without the language specifically included in the CEA, would be treated." The Petitioner now would like to invite the Board to resolve the matter and have the same treatment for any cost increases that TPSs may incur

related to any future State-mandated RPS, regardless of whether or not the Legislature directs that the added costs are eligible to be passed through as a matter of law. The Board finds no reason to make the requested change. The Legislature has shown it is aware of the Board's regulation on fixed-rate contracts. See *Mahwah v. Bergen County Bd. of Taxation*, 98 N.J. 268, 279 (1984) (presuming the Legislature is aware of existing legislation); *DiProspero v. Penn.*, 183 N.J. 477, 494 (2005) (presuming the Legislature is aware of judicial decisions). Further, the Legislature has shown through the CEA that it knows how to supersede that regulation if it so chooses.

The Board maintains its position that the general public, including current and future customers, must be presented with all of the material terms and conditions of a TPS contract in a format that is clear and easily understandable including an explanation of whether the contract is fixed or variable, and the differences between the two. The Board believes that it would be speculative to determine whether it should allow the costs of future legislative enactments to be passed through to customers with fixed price contracts. Instead, the Board finds that it is appropriate to treat future legislative changes on a case-by-case basis that involves a holistic evaluation of the specific language included in the statute. This analysis would include whether the legislation includes language directing that certain TPS cost increases are eligible to be passed through to customers with fixed-price contracts as a matter of law. Based upon the foregoing, the petition is denied.

A copy of this public notice has been mailed to the Petitioner consistent with the requirements set forth at N.J.A.C. 1:30-4.2.

STATE

(a)

NEW JERSEY HISTORICAL COMMISSION Notice of Availability of Funds for Grants to Promote and Enhance New Jersey History

Take notice that the New Jersey Historical Commission ("NJHC" or "Commission"), acting under the authority of N.J.S.A. 18A:73-21-25 and in accordance with P.L. 1999, c. 131, hereby announces the availability of New Jersey history grant program funds.

A. Name of program: New Jersey Historical Commission (NJHC)-fiscal year (FY) 2023 New Jersey Inclusive History Grants.

B. Purpose of funding: To advance the public knowledge of New Jersey history.

C. Objective: The objective of the FY 2023 New Jersey Inclusive History Grants is to support individuals and organizations advancing the exploration of under-represented narratives in New Jersey history with a goal of expanding inclusive, community-centered interpretation and resources offered by historic sites and history organizations. Grants can be utilized in support of research and interpretative planning efforts that seek to tell a more diverse and complex story for a public audience.

D. Eligibility requirements: The FY 2023 New Jersey Inclusive History Grants program is open to individuals and organizations that can

demonstrate a need for funding on projects directly related to New Jersey history as it relates to commemorating the 250th anniversary of the United States in 2026. Single organizational applicants must be documented 501(c)(3) nonprofit history organizations based in New Jersey. Individual applicants may apply on behalf of an organization, but must submit a certification of support for the proposed project from that organization to confirm participation. No agency of the State or Federal government may apply for funding. Applications from Officially Recognized Friends Organizations (ORFO) representing State-owned historic sites will be accepted. County and local government agencies are eligible to apply. Individuals and organizations are restricted to one project grant at a time. Applicants may apply for only one project grant per round.

E. Decisions: All completed applications made by eligible applicants shall be initially evaluated on the published criteria by independent panels of reviewers who are experts in the fields covered by this grant program. Their recommendations will be forwarded to the New Jersey Historical Commission's standing Committee on Grants, Prizes, and Awards for further review. The Committee on Grants, Prizes, and Awards may approve, modify, or reject the recommendations. The recommendations will be forwarded to the full New Jersey Historical Commission for final approval. The New Jersey Historical Commission reserves the right to approve or deny any applicant regardless of the recommendations made by review panelists or the Committee on Grants, Prizes, and Awards.

F. Minimum/Maximum grant awards: Inclusive History Grants: No minimum. Up to \$25,000 maximum.

G. Grant period: December 31, 2022, through December 31, 2023. All applicants who applied for funding will be notified in December 2022.

H. Declaration of Intent to Apply: The Declaration of Intent to Apply must be created and submitted online using the System for Administering Grants Electronically (SAGE). Organizations and individuals wishing to apply for New Jersey Inclusive History Grant funds in fiscal year 2023 must file a Declaration of Intent to Apply electronically by 3:00 P.M. on August 8, 2022.

I. Deadline by which completed applications must be submitted: Completed applications for FY 2023 funding must be filed electronically through SAGE. Organizations and individuals wishing to apply for a New Jersey Inclusive History Grant in FY 2023 must submit their applications electronically by 3:00 P.M. on September 16, 2022.

J. Date by which information on approval or disapproval of funding is available: All applicants who applied for funding will be notified in December 2022.

K. Address for applications to be submitted: Declarations of Intent to Apply and Applications will be filed electronically at Sage.NJ.gov.

L. General information: Individuals and organizations who would like more information, or who have specific questions about the FY 2023 grant programs may consult the New Jersey Historical Commission's website, which can be found at <http://history.nj.gov>. Those with further questions may contact the Commission by telephone at (609) 943-3306, by fax at (609) 633-8168, in writing at PO Box 305, Trenton, NJ 08625, or by email at Sara.Cureton@sos.nj.gov.

Large Print versions of the Guidelines and Applications are available upon request.
