

<u>Document</u>	<u>Value</u>
Foreign passports with [INS or BCIS] USCIS verification and with valid record of arrival/departure (Form I-94) or valid I-551 stamp in passport	4
...	
Valid I-94 stamped "Refugee," "Parolee," "Asylee" or "Notice of Action" (Form I-797 approved petition) by [INS or BCIS] USCIS	4
Valid I-94 with attached photo stamped "Processed for I-551 . . ." by [INS or BCIS] USCIS	4
Current photo employment authorization card (Form I-688B or I-766) (must be presented with a valid [social security] Social Security card)	3
Current Alien Registration Card (Form I-551) without expiration date and with [INS or BCIS] USCIS verification	2
...	
2. Secondary documents:	
i. United States citizens and persons who are not United States citizens must submit at least one document from the list below.	
<u>Document</u>	<u>Value</u>
Valid New Jersey digitized driver or boat operator license (a secondary document for non-United States citizens only)	4
<b>Probationary license with digitized image (a secondary document for non-United States citizens only)</b>	4
...	
Civil marriage or civil union certificate or divorce decree	3
...	
[Current New Jersey non-digitized photo driver license	1]
...	
Social Security card with Social Security Administration (SSA) verification	1
...	
(c) Each applicant must present for inspection an acceptable proof of address document which may be, but is not limited to, the following:	
1.-2. (No change.)	
3. Any letter or correspondence (including tax bills) received from [a] the Federal Internal Revenue Service or any state tax office within the past year;	
4.-5. (No change.)	
6. First class mail from any government agency within six months, including a Commission-issued driver or boat license renewal form;	
7. A checking or savings account statement (bank or credit union) dated within the last 60 days; or	
8. (No change.)	
(d) Pursuant to N.J.S.A. 39:3-9b, victims of domestic violence and other specified crimes, and those the Chief Administrator determines to have good cause may show a mailing address on documents in this list as a post office box, an address other than the applicant's address, or other contact point as acceptable proof of principal residence.	
[(d)] (e) (No change in text.)	
[(e)] For purposes of a name change only, a New Jersey boat operator license can be issued in the boater's married name if an acceptable original or certified marriage certificate (state or municipal seal must appear on document) is accompanied by another acceptable identification in the boater's former name.]	
(f) [All] A boat operator license[s which are] that is an endorsement[s] on a basic driver license shall have the same expiration date as the basic driver license.	

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

## PUBLIC UTILITIES

### (a)

**BOARD OF PUBLIC UTILITIES**  
**Government Energy Aggregation Programs, Energy Anti-Slamming, and Third-Party Suppliers**  
**Proposed Amendments: N.J.A.C. 14:4-2.6, 6.2 through 6.6, 6.10, 7.4, and 7.6**  
**Proposed New Rules: N.J.A.C. 14:4-7.6A and 7.10A**

Authorized By: New Jersey Board of Public Utilities: Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, Commissioners.

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

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

BPU Docket Number: EX14111343.

Proposal Number: PRN 2016-198.

Comments may be submitted through February 3, 2017, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: [rule.comments@bpu.nj.gov](mailto:rule.comments@bpu.nj.gov) or on paper to:

Irene Kim Asbury, Secretary  
 Board of Public Utilities  
 ATTN: BPU Docket Number EX14111343  
 44 S. Clinton Ave., 9th Floor  
 PO Box 350  
 Trenton, NJ 08625-0350

The agency proposal follows:

#### Summary

The New Jersey Board of Public Utilities (Board) is proposing amendments and new rules to N.J.A.C. 14:4, concerning energy anti-slamming, government energy aggregation programs, and retail choice consumer protection.

Below is a section-by-section description of the proposed amendments and new rules.

#### Subchapter 2. Energy Anti-Slamming

The Board is proposing to add new subsections (c) and (d) to N.J.A.C. 14:4-2.6, which details the notice requirements that a local distribution company (LDC) must provide to a customer of a change. The proposed amendments require that the notice must notify the customer of their choice of supplier and, for a residential customer, that the customer will have a minimum of seven calendar days from the date of the confirmation notice to contact his or her LDC and rescind the third-party supplier (TPS) selection. The proposed amendments also contain requirements for an LDC, when it receives a change order from a TPS to switch the customer's energy supplier as a part of a government energy aggregation program (GEA). In addition to complying with the notification requirements of N.J.A.C. 14:4-2.6(a) and (b), the proposed amendments require that the customer be specifically notified that the switch is being made pursuant to a GEA.

The proposed amendments to recodified subsection (e) clarify that the LDC is required to execute all requests from customers to switch from a TPS to the LDC and sets forth timeframe requirements for a switch for electric and gas customers if the utility has received an electronic enrollment from an electric or gas supplier or a request directly from the customer. The proposed amendments require an electric public utility to switch a customer's electric supplier on the current month's scheduled meter reading date when the electric public utility has received the request at least 13 days prior to the current month's scheduled meter reading date. Additionally, gas public utilities would be required to switch a firm customer's gas supplier on the current month's scheduled meter reading date when the gas public utility has received the request

on or before the 10th calendar day of the prior month. The proposed amendments also require gas and electric public utilities to schedule meter reading dates at least once a month to enable customers to switch providers. Finally, the proposed amendments recodified at subsection (f) apply to all customer enrollment or drop requests that are received by an LDC 30 or more days following the adoption of the rule.

#### Subchapter 6. Government Energy Aggregation Programs

The proposed amendments make a technical change to the definitions in N.J.A.C. 14:4-6.2.

The proposed amendments to N.J.A.C. 14:4-6.3 make technical changes and prohibit a designee that is not a TPS from arranging the retail sale of electricity, electric-related services, gas supply or gas-related services between a government aggregator and a TPS without first registering with the Board as an energy agent.

The Board is proposing three new subsections to N.J.A.C. 14:4-6.4, concerning municipal and/or county energy aggregation programs along with a technical change to subsection (h).

Proposed new subsection (j) sets forth the requirements for the submission of government energy aggregation documents to the Board and the Division of Rate Counsel (Rate Counsel). The requirements include the specific people at the Board who must receive a hard copy of the documents along with two hard copies to the Director of the Division of Rate Counsel; the electronic filing provisions; and the specifications for the cover letter that must accompany the documents.

Proposed new subsection (k) requires that the LDC develop protocols to allow them to identify their customers who are being served by a TPS as a part of a government energy aggregation program (GEA) and to track them separately from those being served by a TPS and not participating in a GEA. The proposed new subsection also requires that the LDC must separately quantify these customers in their switching statistics that they submit to the Board and provides the specifications from which the protocols to identify the customers must be developed. Electronic Data Interchange (EDI) is the direct computer-to-computer exchange and processing of standard business forms from one business application to another. As part of implementation of electric retail choice pursuant to the Electric Discount and Energy Competition Act (EDECA) in 1999, the Board of Public Utilities approved an EDI protocol as the authorized manner for TPSs to enroll customers and exchange billing and metering information with electric distribution companies (EDCs). Thereafter, the gas distribution companies (GDCs) began using EDI. The standardized EDI protocols provide practical, operational, electronic standards for these transactions. The EDI documents can be found at: <http://www.nj.gov/bpu/about/divisions/energy/edi.html>.

Proposed new subsection (l) requires that the governing body of each municipality participating in a GEA must maintain a list of residential customers that have provided notification that they prefer to be excluded from all future GEAs.

The Board is proposing multiple amendments to N.J.A.C. 14:4-6.5, concerning the establishment of an Option 1 government-private energy aggregation program. The proposed amendment to subsection (a) requires that, in addition to the LDC, the municipality must provide copies of the ordinance or resolution adopted pursuant to N.J.A.C. 14:4-6.4(c), to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

The proposed amendments to subsection (d) clarify the notice requirements that must be sent to customers by the LDC excluding customers who have provided notification that they prefer to be excluded from all GEAs. Additionally, the proposed amendments require the LDC to send each applicable municipality a list of the names and addresses of customers from that municipality to whom it intends to send the notice and set forth procedures for the municipality to identify any inconsistencies between the municipality's records and identify customers who are on the municipality's list of residential customers who prefer to be excluded from GEAs.

The proposed amendments to subsection (f): make technical changes; add a new notice requirement for customers outside of the geographic boundaries of the participating municipality; and provide that if a residential customer inside the geographic boundaries of a participating

municipality does not receive notice of the program, the customer will be permitted to opt-in to the program at any time.

The proposed amendments to subsection (g) make technical changes.

Proposed new subsection (h) requires that the final version of the notice to residential customers shall be sent to the Board and Rate Counsel along with an indication of the number of residential customers to which the notice will be sent.

Recodified subsection (j) is proposed for amendment to state that the contract between the government aggregator and the selected TPS may include provisions that allow these customers to join the government energy aggregation program at a later date.

Recodified subsection (k) is proposed for amendment to specify requirements for the LDC to provide information to the person identified in the GEA agreement. The proposed amendments for a GEA that has been established to purchase electric generation service require that in addition to the number of residential electric customers by rate class, the LDC must provide the lead agency with the aggregate capacity obligation, aggregate transmission obligation, and aggregate usage data by residential rate class for residential electric customers. The proposed amendments for a GEA that has been established to purchase gas supply service require that in addition to the number of residential gas customers by rate class, the LDC must provide the lead agency with the aggregate usage data by residential rate class. This requirement applies to residential gas customers that are located within the geographic boundaries of the participating municipality, receive BGSS service from the LDC or are being served by a third-party supplier through an expiring GEA.

Recodified subsection (l) is proposed for amendment to make a technical change and require that the voluntary submittal of the draft bidding documents to the Board and Rate Counsel must be submitted pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

Recodified subsection (m) is proposed for amendment to require that the voluntary submittal of the draft contract to the Board and Rate Counsel must be submitted pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

Recodified subsection (o) is proposed for amendment to require the lead agency to submit copies of the executed contract to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j) and to the Division of Consumer Affairs within three business days of execution and to permit the TPS to file a request for treatment of designated information in the contract as confidential information.

Proposed new subsection (r) requires that, if at any time a participating municipality determines that it will not implement a proposed GEA, the lead agency must notify the Board, Rate Counsel, and the affected LDC in writing pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

The Board is proposing multiple amendments to N.J.A.C. 14:4-6.6, concerning the establishment of an Option 2 energy aggregation program.

The proposed amendment to subsection (a) requires the municipality or county that wishes to establish or participate in a government-private Option 2 energy aggregation program to additionally provide a copy of the resolution or ordinance adopted pursuant to N.J.A.C. 14:4-6.4(c) to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

The proposed amendments to subsection (b) require that a commercial electric customer with a cumulative peak load of 50 kilowatts or less or a commercial gas customer with a cumulative peak load of 5,000 therms or less, must be given a GEA Program Summary that describes all relevant program provisions in a one-page document in a standardized format that will be posted on the Board's website before they opt into the program. The proposed amendments also detail the minimum requirements that a GEA Program Summary must contain.

The proposed amendment to subsection (d) permits the contract between the government aggregator and the selected TPS to include provisions that allow non-residential customers that do not submit an opt-in response to the option administrator within the 30 calendar-day response period to join the GEA at a later date.

The proposed amendments to subsection (f) add the requirement that each participating municipality in an Option 2 government-private energy aggregation program has to execute the LDC agreement and has to provide it to the LDC for execution within 10 calendar days for the LDC to provide customer information described in subsection (g) to the lead agency. Additionally, the proposed amendments make technical changes.

The Board is proposing multiple substantive and technical amendments to subsection (g). The proposed amendments for a GEA that has been established to purchase electric generation service require that, in addition to the number of residential electric customers by rate class, the LDC must provide the lead agency with the aggregate capacity obligation, aggregate transmission obligation, and aggregate usage data by residential rate class for residential electric customers. The proposed amendments for a GEA that has been established to purchase gas supply service require that in addition to the number of residential gas customers by rate class, the LDC must provide the lead agency with the aggregate usage data by residential rate class for residential gas customers. This requirement applies to residential gas customers that are located within the geographic boundaries of the participating municipality, receive BGSS service from the LDC or are being served by a third-party supplier through an expiring GEA.

The proposed amendments to subsections (i) and (l) specify that the lead agency must comply with the instructions contained in proposed new N.J.A.C. 14:4-6.4(j).

The proposed amendment to subsection (n) requires the lead agency to submit copies of the executed contract to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j) and to the Division of Consumer Affairs within three business days of execution and to permit the TPS to file a request for treatment of designated information in the contract as confidential information.

The proposed amendment to subsection (p) expands the requirements for participating municipalities affected to those that are receiving basic generation service (BGS) or BGSS from the LDC or are being served by a third-party supplier through an expiring GEA.

The proposed amendments to subsection (q) require each participating municipality to review the information provided by the LDC and to identify any inconsistencies between addresses that the LDC has identified as being within the geographic boundaries of the municipality and the municipality's records regarding which addresses are located within the municipality's geographic boundaries. Additionally, the proposed amendments state that the written notice in accordance with subsection (r) and (s) must be provided by the lead agency or participating municipality to all residential electric and/or gas customers within the jurisdiction of a 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.

The proposed amendments to subsection (r) provide additional requirements to the required notice to residential customers including an explanation for a notification to a customer outside of the geographic boundaries of the participating municipality and the format of a GEA summary to be posted on the Board's website. The proposed amendments also detail the minimum requirements that a GEA Program Summary must contain.

Proposed new subsection (s) requires the final version of the notice required by subsection (q) to be sent to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j) and provides requirements for both hard and electronic copies.

Recodified subsection (t) is proposed for amendment to require that draft notices be submitted to the Board and Rate Counsel pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

Proposed new subsection (w) requires that if, at any time following submission of documents to the Board and Rate Counsel, a lead agency or participating municipality determines that it will not implement a proposed GEA, the lead agency must notify the Board, Rate Counsel,

and the affected LDC in writing pursuant to the instructions in proposed new N.J.A.C. 14:4-6.4(j).

The Board is proposing technical amendments and substantive amendments to N.J.A.C. 14:4-6.10, concerning the contents of a contract between a government aggregator and the selected TPS. The proposed amendments to subsection (a) add requirements that a contract between a government aggregator and a TPS must meet, including the requirement that the TPS must return customers to the LDC at the end of the GEA, a clear description of the customer billing arrangements, and a provision stating that all customer information that is provided to the TPS for the GEA is deemed confidential. Proposed new subsection (b) requires that the contract be signed by one or more designated officials from each participating municipality. The proposed new section also prohibits the delegation of this task to a person who is not an official from the municipality.

#### **Subchapter 7. Retail Choice Consumer Protection**

The proposed amendment to N.J.A.C. 14:4-7.4(a)8 requires that, in the event the TPS offers budget billing, there must be a true-up at least once every 12 months for accounts on budget billing.

The proposed amendments to N.J.A.C. 14:4-7.6 make technical changes and require that the TPS contract must include a clear description of the customer billing arrangements.

The Board is proposing new N.J.A.C. 14:4-7.6A, concerning TPS contract summaries.

Proposed new subsection (a) requires that 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, must provide a 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. The proposed new rule also details the minimum requirements that a TPS Contract Summary must contain.

Proposed new subsection (b) requires the TPS to conspicuously display the completed TPS Contract Summary at the front of the proposed residential customer's contract and provide it to the customer when the customer signs up for service or contracts for a renewal of service.

Proposed new subsection (c) requires that the notice that is sent to residential customers with instructions on how to opt-out of an Option 2 energy aggregation program shall include a GEA Program Summary.

Proposed new subsection (d) requires that commercial electric customers with a cumulative peak load of 50 kilowatts or less and commercial gas customers with a cumulative peak load of 5,000 therms or less who are served through a government energy aggregation program must be given a GEA Program Summary before they opt into the program.

The Board is proposing new N.J.A.C. 14:4-7.10A, concerning the transfer of a residential contract by a TPS.

Proposed new subsection (a) requires that when a TPS purchases another TPS, the accounts of customers of another TPS, or the TPS accounts are otherwise transferred to an affiliate company, the customer must be notified in writing by the acquiring TPS at least 30 days prior to the effective date of the customer switch to the acquiring TPS. The written notice must advise the customer that the new TPS will serve the customer under the same terms and conditions as the prior TPS and that a customer may choose another energy supplier or return to the LDC prior to the account transfer. Finally, the proposed new subsection provides that the customer must be served under the same terms and conditions as under the contract with the prior supplier except that the name, address, and other contact information for the TPS may change.

Proposed new subsection (b) requires that when a TPS ceases operations and does not transfer its residential contracts to another TPS, the TPS must notify its customers 30 days in advance of the effective date of the customer switch to the LDC. Additionally, the notice must contain a timetable for the customer to choose another energy supplier before defaulting to the LDC.

The Board has provided a 60-day comment period on this notice of proposal. Accordingly, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The Board believes that the proposed amendments and new rules will have a beneficial social impact by continuing to ensure that New Jersey energy customers will receive the benefits of a competitive marketplace. The proposed changes to the anti-slamming rules 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 proposed changes to 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. Finally, the proposed changes to the Board's retail choice consumer protection rules 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 proposed amendments and new rules are not likely to have a significant economic impact, in that they continue existing requirements for third-party suppliers and government energy aggregation programs. The Board believes that the proposed changes will have an overall positive economic impact by continuing to encourage competition in energy supply services. The Board also believes that the cost of compliance with the anti-slamming provisions is justified to prevent the costs of slamming, which can be harmful to the customer. Finally, the Board believes the government aggregation programs have a potential for a positive economic impact on customers and that the costs that would be saved through these programs would be more than the costs necessary to set up these programs.

#### Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed amendments and new rules have no Federal analogue and 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 incorporates or refers to Federal law, standards, or requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., do not require a Federal standards analysis for the proposed amendments and new rules.

#### Jobs Impact

It is anticipated that the proposed amendments and new rules will not cause any jobs to be generated or lost in any area of the State's economy.

#### Agriculture Industry Impact

The Board does not expect any agriculture industry impact from the proposed amendments and new rules.

#### Regulatory Flexibility Statement

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. The proposed amendments and new rules impose reporting, recordkeeping, or other compliance requirements on small businesses operating as government energy aggregation programs or third-party suppliers as discussed in the Summary above. Accordingly, no regulatory flexibility analysis is required.

#### Housing Affordability Impact Analysis

The proposed amendments and new rules will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the regulation of government energy aggregation programs and third-party suppliers.

#### Smart Growth Development Impact Analysis

The Board does not expect the proposed amendments and new rules to have an impact on housing production in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plans in New Jersey because the scope of the rules is limited to the regulation of government energy aggregation programs and third-party suppliers.

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

#### SUBCHAPTER 2. ENERGY ANTI-SLAMMING

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

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

**(c) The notice required in (a) above shall notify the customer of his or her choice of supplier and, for a residential customer, that the customer will have a minimum of seven calendar days from the date of the confirmation notice to contact his or her LDC and rescind the TPS selection.**

**(d) When an LDC receives a change order from a TPS to switch a customer's energy supplier as part of a government energy aggregation program that is established pursuant to N.J.A.C. 14:4-6, the notice required in (a) above shall:**

**1. Comply with (b) and (c) above; and**

**2. Specifically notify the subject customer that the switch is being made pursuant to a government energy aggregation program that has been established by the local township, municipality, or county, or, if the LDC has not yet implemented a method of identifying its customers who are being served by a TPS as part of a government energy aggregation program pursuant to N.J.A.C. 14:4-6.4(k)2, include a statement that the switch may have been made pursuant to a government energy aggregation program that has been established by the local township, municipality, or county.**

**[(c)] (e) If an LDC receives a complaint from a customer about a pending or processed change order, the LDC shall immediately inform the customer that [they] he or she may contact the TPS for dispute resolution, or may contact Board staff to file a customer complaint. Upon receiving the complaint, Board staff will conduct an investigation.**

**[(d)] (f) The LDC shall execute all TPS change orders that comply with this subchapter [as soon as possible] 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. An electric public utility shall switch a customer's electric supplier on the current month's scheduled meter reading date when the electric public utility has received one of the following requests at least 13 days prior to the current month's scheduled meter reading date:**

**i. An electronic enrollment or drop request from an electric power supplier; or**

**ii. A request directly from a customer to switch from an electric power supplier to basic generation service.**

**2. A gas public utility shall switch a firm customer's gas supplier on the current month's scheduled meter reading date when the gas public utility has received one of the following requests on or before the 10th calendar day of the prior month:**

**i. An electronic enrollment or drop request from a gas supplier; or**

**ii. A request directly from a customer to switch from a gas supplier to basic gas supply service.**

**3. Gas public utilities and electric public utilities shall schedule meter reading dates at least once a month for the purpose of enabling customers to switch suppliers.**

**4. The provisions in (f)1 through 3 above shall apply to all customer enrollment or drop requests that are received by an LDC on or after (30 days after the effective date of this amendment).**

## SUBCHAPTER 6. GOVERNMENT ENERGY AGGREGATION PROGRAMS

## 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 shall apply to this subchapter, unless the context clearly indicates otherwise.

...  
 “Government energy aggregation program” (GEA) means a program under which a government aggregator that is a municipality or county enters into a written contract for the provision of electric generation service or gas supply service on behalf of residential or non-residential customers within its geographic boundaries.  
 ...

## 14:4-6.3 General provisions

(a) (No change.)

(b) Unless otherwise specified, any obligation of a government aggregator, TPS, or LDC under this subchapter may be performed on behalf of the government aggregator, TPS, or LDC by a contractor, consultant, or other designee. Any such designee shall execute a confidentiality agreement or provide other guarantee(s) of compliance with the consumer protection standards at N.J.A.C. 14:4-7, and the customer information requirements at (f) below[,] **prior to receiving any customer related information. A designee that is not a TPS shall not arrange the retail sale of electricity, electric-related services, gas supply, or gas-related services between a government aggregator and a TPS without first registering with the Board as an energy agent in compliance with N.J.A.C. 14:4-5.8.**

(c)-(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 [its] **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.

(j) (No change.)

(k) A residential customer may opt-out of an aggregation program at any time and switch to another energy supplier, **including to the LDC**, upon 30 days notice to the lead agency and the appropriate LDC.

(l) (No change.)

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

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

(h) If a municipality or county is a participant in an energy aggregation program and becomes a member of a larger energy aggregation program, it shall comply with the [notice] requirements in the rules of the Department of Community Affairs governing local public and public school cooperative purchasing, at N.J.A.C. 5:34-7.18 and 7.19.

(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 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. **Two hard copies of the documents shall be submitted to the Director, Division of Rate Counsel, 140 East Front Street, 4th Floor, PO Box 003, Trenton, New Jersey 08625;**

3. **The documents shall be submitted electronically to the Board and Rate Counsel, in portable document format (pdf) containing a text searchable optical character recognition (OCR) layer, by e-mailing them to: [GEA.BPU@bpu.nj.gov](mailto:GEA.BPU@bpu.nj.gov) and [GEA@rpa.state.nj.us](mailto:GEA@rpa.state.nj.us), respectively; and**

4. **The documents shall include a cover letter that shall be addressed to the Secretary of the Board with a subject line that**

states, “Subject: Government Energy Aggregation Submittal –” and then identifies the name of the government energy aggregation program and the specific section of the New Jersey Administrative Code that requires the submission of the documents. This cover letter shall include all of the following information:

i. The name of each municipality participating in the government energy aggregation program;

ii. The name of each affected LDC that serves the geographic area governed by the participating municipality/county;

iii. Business contact information (name, company name, title, work phone number, work mailing address, and work e-mail address) for the person responsible for submission of the document;

iv. Business contact information (name, municipality name, title, work phone number, work mailing address, and work e-mail address) for a person from each participating municipality who has been designated by the municipality’s governing body as a central point of contact for the municipality’s governing body with respect to matters related to the government energy aggregation program;

v. A description of the documents provided and, if applicable, the section of the rule pursuant to which it is being filed;

vi. The date that the lead agency currently anticipates that the government energy aggregation program will be implemented; and

vii. A brief description of the government energy aggregation program including, but not limited to, residential and commercial, residential only; gas and/or electric; and the estimated number of customers.

(k) The LDCs shall develop protocols that will allow them to identify their customers who are being served by a TPS as part of a government energy aggregation program, track them separately from those who are being served by a TPS but not participating in a government energy aggregation program, and quantify them in their switching statistics reports that they submit to the Board. The protocols to identify the customers shall be developed as follows:

1. The LDCs that adhere to the New Jersey EDI Implementation Guidelines, incorporated herein by reference, as amended and supplemented, which can be found in the combined Pennsylvania, New Jersey, Delaware, and Maryland EDI Implementation Guidelines, at [www.nj.gov/bpu/about/divisions/energy/edi.html](http://www.nj.gov/bpu/about/divisions/energy/edi.html), shall work together to develop standardized electronic data interchange (EDI) protocols that, when implemented, would require TPSs sending change orders through an EDI pursuant to N.J.A.C. 14:4-2.3 to identify those customers who are being switched pursuant to a government energy aggregation program. This standardized EDI change control shall be presented to the New Jersey EDI working group by (30 days of the effective date of this section) for review, edits if necessary, and implementation by (120 days of the effective date of this section).

2. If an LDC adheres to the New York EDI implementation guidelines, and a government energy aggregation program is implemented that provides electric generation service to its residential customers, the LDC shall develop a method of identifying its customers who are being served by a TPS as part of a government energy aggregation program and file this proposed method with the Board for its consideration within 90 days of the start of service to its customers through a government energy aggregation program. If the LDC’s proposed method for identifying customers is not an EDI method, the filing shall include a comparison of the proposed method, and a method that utilizes EDI, and the associated costs, work requirements, and benefits of each of these methods.

(l) The governing body of each municipality that participates in a government energy aggregation program shall maintain a list of residential customers who have advised the municipality, or a designee of the municipality, that they prefer to be excluded from all future government energy aggregation programs. The municipality may delegate the task of maintaining this list pursuant to N.J.A.C. 14:4-6.3(b).

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

(a) Each municipality or county that wishes to establish or participate in a government-private Option 1 energy aggregation program shall provide a copy of the ordinance or resolution adopted pursuant to N.J.A.C. 14:4-6.4(c) to each LDC that serves the geographic area governed by the municipality or county **and to the Board and Rate Counsel pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**

(b)-(c) (No change.)

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

**[(d)] 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 [that already obtain electric generation service or gas supply service from a TPS.] 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.**

**2. If requested by the municipality, the LDC shall also send a notice to all non-residential electric and gas customers located in the municipality.**

**3. The LDC shall send to each applicable municipality, a list of the names and addresses of customers from that municipality to whom it intends to send the notice. After receiving the list, each participating municipality shall review the list to identify any inconsistencies between the municipality's records and the addresses that the LDC has identified as being within the geographic boundaries of the municipality and to identify customers who are on the municipality's list of residential customers who prefer to be excluded from government energy aggregation programs. Within five business days of receipt of the list, the municipality shall notify the LDC accordingly, so that the LDC can adjust the list.**

(e) (No change.)

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

1.-5. (No change.)

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

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

**8. An explanation that if the notification reaches a customer outside of the geographic boundaries of the participating municipality, the customer should contact the TPS 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) For government-private energy aggregation programs, the lead agency shall submit a draft notice for use in notifying customers under (c) above to the Board [Secretary] and [the Director, Division of] Rate Counsel, pursuant to the instructions at N.J.A.C. 14:4-6.4(j). This submittal shall provide at least 15 calendar days for Board staff and/or Rate Counsel to comment on the forms. The draft notice shall include, at a minimum, all of the information required at (f) above. The Board shall make available on its website sample customer notification forms for government-private energy aggregation programs that do not use special pricing for renewable energy in accordance with N.J.A.C. 14:4-6.9(g), or include appliance repair services. The sample customer notification forms can be found at <http://www.nj.gov/bpu/about/divisions/energy/governmentenergyaggregation.html>.

**(h) The final version of the notice to residential customers required under (c) above shall be sent to the Board and Rate Counsel, along with an indication of the number of residential customers to which the notice will be sent, pursuant to the instructions at N.J.A.C. 14:4-6.4(j). The hard copies of the documents shall be post marked on or before the date the notice is mailed to residential customers. The electronic submittal shall be e-**

**mailed on or before the date the notice is mailed to residential customers.**

**[(h)] (i) (No change in text.)**

**[(i)] (j) If a non-residential customer does not submit an opt-in response to the LDC within 30 calendar-days after the postmark on the notice required under this section, the customer shall not be included in the energy aggregation program. However, the contract between the government aggregator and the selected TPS may include provisions that allow these customers to join the government energy aggregation program at a later date.**

**[(j)] (k) Within 10 calendar-days after the expiration of the 30-day response period for customers to opt-in or opt-out, the LDC shall provide the following information to the person identified in the government aggregator agreement:**

**1. For a government energy aggregation program that has been established to purchase electric generation service:**

**[1.] i. The number of that LDC's residential electric customers, by rate class[,] and the aggregate capacity obligation, aggregate transmission obligation, and aggregate usage data by residential rate class for residential customers that:**

**[i.] (1) (No change in text.)**

**[ii.] (2) Are [not already] receiving BGS service from the LDC or are being served by a third-party supplier through an expiring government energy aggregation program; and**

**[iii.] (3) (No change in text.)**

Recodify existing 2.-3. as ii.-iii. (No change in text.)

**2. For a government energy aggregation program that has been established to purchase gas supply service:**

**i. The number of residential gas customers, by rate class, and the aggregate usage data by residential rate class for residential customers that:**

**(1) Are located within the geographic boundary of the participating municipality;**

**(2) Are receiving BGSS service from the LDC or are being served by a third-party supplier through an expiring government energy aggregation program; and**

**(3) Did not submit an opt-out response during the 30-day response period;**

**ii. The 12-month historical usage for each non-residential customer located within the geographic boundary of the participating municipality that has chosen to opt-in to the energy aggregation program. Less than 12 months of data may be supplied, if the customer is new to the LDC system; and**

**iii. The 12-month historical usage for each government facility that each participating government aggregator has indicated will be included in the energy aggregation program. Less than 12 months of data may be supplied, if the customer is new to the LDC system.**

**[(k)] (l) Within six months after the end of the 30-day response period required under this section, the lead agency shall advertise for the receipt of bids in accordance with N.J.A.C. 14:4-6.8. If the advertisement is not issued within this time, the customer notice and opt-in/opt-out process required under (c) through (f) above shall be repeated. The lead agency may voluntarily choose to provide a copy of draft bidding documents to the Board and/or Rate Counsel[, as defined at N.J.A.C. 14:3-1.1.] for comments prior to advertising for bids. Any such voluntary submittal shall provide at least 15 calendar days for the Board and/or Rate Counsel to comment on the documents and shall be submitted pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**

**[(l)] (m) Upon completion of the bidding process in accordance with N.J.A.C. 14:4-6.8, the lead agency shall determine whether to award a contract to a TPS in accordance with N.J.A.C. 14:4-6.8, and to which TPS the contract shall be awarded. The lead agency may voluntarily choose to provide a copy of the draft contract to the Board and/or Rate Counsel for comments prior to executing the contract. Any such voluntary submittal shall provide at least 15 calendar days for the Board and/or Rate Counsel to comment on the draft contract and shall be submitted pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**

**[(m)] (n) (No change in text.)**

**[(n)] (o) The lead agency shall execute a contract with the selected TPS. The contract shall comply with N.J.A.C. 14:4-6.9 and 6.10. The**

lead agency shall submit copies of the executed contract to the Board and Rate Counsel pursuant to the instructions at N.J.A.C. 14:4-6.4(j), and to the Division of Consumer Affairs within three business days of execution. A TPS may elect to file a request for treatment of designated information in the contract as confidential information under the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12.

[(o)] (p) Within 10 calendar days after the postmark on the notice to the LDC required under [(m)] (n) above, the LDC shall provide to the lead agency or its designee, the name, address, and account number of each residential and non-residential customer that will be included in the program, as indicated by the opt-in and opt-out responses that were submitted to the LDC.

[(p)] (q) (No change in text.)

(r) **If, at any time after submitting documents to the Board and to Rate Counsel pursuant to (g) above, the lead agency, or one of the participating municipalities, determines that it will not implement the proposed government energy aggregation program, the lead agency shall notify the Board, Rate Counsel, and the affected LDC(s) of this decision in writing pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**

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

(a) Each municipality or county that wishes to establish or participate in a government-private Option 2 energy aggregation program shall provide a copy of the resolution or ordinance adopted pursuant to N.J.A.C. 14:4-6.4(c) to each LDC that serves the geographic area governed by the municipality or county **and to the Board and Rate Counsel pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**

(b) If the program is open to non-residential customers, the lead agency and each participating municipality shall issue a public notice. The notice shall advise nonresidential customers located within the geographic boundaries of the municipality or county that they are eligible to participate in the program if they submit an opt-in response to the option administrator within 30 calendar days after the resolution or ordinance authorizing the program. **A commercial electric customer with a cumulative peak load of 50 kilowatts or less or a commercial gas customer with a cumulative peak load of 5,000 therms or less, shall be given a GEA Program Summary before they opt into the program that describes all relevant program provisions on a one-page document in a standardized format that will be posted under the heading "GEA Program Summary Standardized Format" on the Board's website, <http://www.nj.gov/bpu/>. The GEA Program Summary shall, at a minimum:**

1. Summarize the material terms and conditions of the contract;
2. Be available in Spanish, upon request of the customer;
3. Include instructions explaining how the customer may obtain a Spanish version of the GEA Program Summary;
4. Be written in plain language;
5. State the duration of the contract;
6. State, in a 12-point, boldface font, whether the contract is for a fixed rate or a variable rate;
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;
8. State the price per kilowatt hour or per therm as instructed in the Government Energy Program Summary Standardized Format posted on the Board's website;
9. Utilize fonts that are no smaller than 12 point in size;
10. Fit on a single 8.5 inch by 11 inch page;
11. List at the top of the GEA Program Summary:
  - i. The customer's name, address, and local distribution company account number; or
  - ii. The specific name of the government energy aggregation program followed by "Government Energy Aggregation Program Summary for Commercial Customers";
12. Use gas or electric terminology, as appropriate. If a customer contracts for both gas and electric supply service, a separate GEA Program Summary shall be provided for each service;

13. Utilize all of the exact headings shown in the boxes on the left side of the posted GEA Program Summary Standardized Format, except that the words "Third Party Supplier" in the heading, "Third Party Supplier Information" may be replaced with the name of the actual TPS, and the words, "Distribution Company" in the heading, "Distribution Company Information" may be replaced with the name of the actual distribution company; and

14. **Include the appropriate information in each of the boxes on the right side of the GEA Program Summary based upon the specific instructions in the boxes on the right side of the posted GEA Program Summary Standardized Format.**

(c) (No change.)

(d) If a non-residential customer does not submit an opt-in response to the option administrator within the 30 calendar-day response period set forth in the public notice required under (b) above, the customer shall not be included in the energy aggregation program. **However, the contract between the government aggregator and the selected TPS may include provisions that allow these customers to join the government energy aggregation program at a later date.**

(e) (No change.)

(f) Within 10 calendar-days after the date upon which [both] all of the following have occurred, the LDC shall provide the customer information described at (g) below to the lead agency:

**1. Each participating municipality in an Option 2 government-private energy aggregation program has executed the LDC agreement and has provided it to the LDC for execution;**

Recodify existing 1.-2. as 2.-3. (No change in text.)

(g) The LDC shall provide the lead agency with the following information as required under (f) above:

**1. For a government energy aggregation program that has been established to purchase electric generation service:**

[1.] i. The number of residential electric customers, by rate class, **and the aggregate capacity obligation, aggregate transmission obligation, and aggregate usage data by residential rate class for residential electric customers that [are]:**

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

(2) Are receiving BGS service from the LDC or are [not] being served by a third-party supplier[;] through an expiring government energy aggregation program.

[2.] ii. The 12-month historical capacity obligation, transmission obligation, and usage of the non-residential customers that the option administrator has identified as program participants. This information may be provided separately for each customer or as an aggregate amount; and

[3.] iii. The 12-month historical capacity obligation, transmission obligation, and usage for each government facility that each participating government aggregator has indicated will be included in the energy aggregation program. Less than 12 months of data may be supplied, if the customer is new to the LDC system or, in the case of electric interval data, if the appropriate metering has been installed less than 12 months previously.

**2. For a government energy aggregation program that has been established to purchase gas supply service:**

i. The number of residential gas customers, by rate class and the aggregate usage data by residential rate class for residential gas customers that:

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

(2) Are receiving BGSS service from the LDC or are being served by a third-party supplier through an expiring government energy aggregation program.

ii. The 12-month historical usage of the non-residential customers that the option administrator has identified as program participants. This information may be provided separately for each customer or as an aggregate amount; and

iii. The 12-month historical usage for each government facility that each participating government aggregator has indicated will be included in the energy aggregation program. Less than 12 months of data may be supplied, if the customer is new to the LDC system.

(h) (No change.)

(i) The lead agency shall provide a copy of the draft bidding documents to the Board and to Rate Counsel, [as defined at N.J.A.C. 14:3-1.1,] **pursuant to the instructions at N.J.A.C. 14:4-6.4(j)**, for their comment at least 30 calendar days prior to advertising for bids. The Board and Rate Counsel shall have 15 calendar days from receipt of the draft bidding documents to provide comments. The lead agency may accept or reject comments submitted by the Board and Rate Counsel.

(j)-(k) (No change.)

(l) The lead agency shall provide a copy of the draft contract to the Board and Rate Counsel, **pursuant to the instructions at N.J.A.C. 14:4-6.4(j)**, for their comment. The Board and Rate Counsel shall have 15 calendar days after receipt of the draft contract to provide comments to the lead agency.

(m) (No change.)

(n) After the requirements for Board and Rate Counsel comments at (l) and (m) above are met, the lead agency may execute a contract with the selected TPS(s) that meets the requirements of N.J.A.C. 14:4-6.9 and 6.10. **Within three business days of execution, the lead agency shall submit copies of the executed contract to the Board and Rate Counsel pursuant to the instructions at N.J.A.C. 14:4-6.4(j), and to the Division of Consumer Affairs. A TPS may elect to file a request for treatment of designated information in the contract as confidential information under the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12.**

(o) (No change.)

(p) Within 10 business days after the postmark on the notice to the LDC required under (o) above, the LDC shall provide the lead agency with the name, address, and account number of each residential customer located in a participating municipality, that is [not already] **receiving BGS or BGSS from the LDC or is being served by a [TPS] third-party supplier through an expiring government energy aggregation program.**

(q) After receiving the information required under (p) above from the LDC, [the] **each participating municipality shall review the information provided by the LDC to identify any inconsistencies between addresses that the LDC has identified as being within the geographic boundaries of the municipality and the municipality's records regarding which addresses are located within the municipality's geographic boundaries. The lead agency or each participating municipality shall then provide written notice in accordance with (r) and (s) below to all residential electric and/or gas customers within the jurisdiction of a 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 [that already obtain electric generation service or gas supply service from a TPS.] 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.**

(r) The notice to residential customers required under (q) above shall include the following:

1.-5. (No change.)

6. Directions on how to submit an opt-out response; [and]

7. A contact name, phone number, and e-mail address for customer inquiries[.];

**8. An explanation that if the notification reaches a customer outside of the geographic boundaries of the participating municipality, the customer should contact the TPS to be removed from the program, and if a customer inside the geographic boundaries of a participating municipality does not receive an opt-out letter, he or she will be permitted to opt-in to the program at any time; and**

**9. A Government Energy Aggregation Program Summary that describes all relevant program provisions in a one-page document in a standardized format that will be posted under the heading "GEA Program Summary Standardized Format" on the Board's website, <http://www.nj.gov/bpu/>. The GEA Program Summary shall, at a minimum:**

**i. Summarize the material terms and conditions of the contract;**

**ii. Be available in Spanish upon request of the customer;**

**iii. Include instructions explaining how the customer may obtain a Spanish version of the GEA Program Summary;**

**iv. Be written in plain language;**

**v. State the duration of the contract;**

**vi. State, in a 12-point, boldface font, whether the contract is for a fixed rate or a variable rate;**

**vii. 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;**

**viii. State the price per kilowatt hour or per therm as instructed in the posted Government Energy Program Summary Standardized Format;**

**ix. Utilize fonts that are no smaller than 12 point in size;**

**x. Fit on a single 8.5 inch by 11 inch page;**

**xi. List at the top of the Government Energy Aggregation Program Summary:**

**(1) The customer's name, address, and local distribution company account number; or**

**(2) The specific name of the government energy aggregation program followed by "Government Energy Aggregation Program Summary";**

**xii. Use gas or electric terminology, as appropriate. If a customer contracts for both gas and electric supply service, a separate Government Energy Aggregation Program Summary shall be provided for each service;**

**xiii. Utilize all of the exact headings shown in the boxes on the left side of the posted GEA Program Summary Standardized Format, except that the words "Third Party Supplier" in the heading, "Third Party Supplier Information" may be replaced with the name of the actual TPS, and the words, "Distribution Company" in the heading, "Distribution Company Information" may be replaced with the name of the actual distribution company; and**

**xiv. Include the appropriate information in each of the boxes on the right side of the GEA Program Summary based upon the specific instructions in the boxes on the right side of the below posted GEA Government Energy Aggregation Program Summary Standardized Format.**

**(s) The final version of the notice to residential customers required under (q) above shall be sent to the Board and Rate Counsel pursuant to the instructions at N.J.A.C. 14:4-6.4(j), along with an indication of the number of residential customers to which the notice will be sent. The hard copies of the documents shall be postmarked on or before the date the notice is mailed to residential customers. The electronic submittal shall be e-mailed on or before the date the notice is mailed to residential customers.**

**[(s)] (t) For government-private energy aggregation programs, the lead agency shall submit a draft notice for use in notifying customers under (q) above to the Board [Secretary] and [the Director, Division of] Rate Counsel, pursuant to the instructions at N.J.A.C. 14:4-6.4(j). This submittal shall provide at least 15 calendar days for Board staff and/or Rate Counsel to comment on the forms. The draft notice shall include, at a minimum, all of the information required at (r) above. The Board shall make available on its website sample customer notification forms for government-private energy aggregation programs that do not use special pricing for renewable energy in accordance with N.J.A.C. 14:4-6.9(g), or include appliance repair services. The sample customer notification forms can be found at <http://www.nj.gov/bpu/about/divisions/energy/governmentenergyaggregation.html>.**

**Recodify existing (t)-(u) as (u)-(v) (No change in text.)**

**(w) If, at any time after submitting documents to the Board and to Rate Counsel pursuant to (i) above, the lead agency, or one of the participating municipalities, determines that it will not implement the proposed government energy aggregation program, the lead agency shall notify the Board, Rate Counsel, and the affected LDC(s) of this decision in writing pursuant to the instructions at N.J.A.C. 14:4-6.4(j).**



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

(a) A contract between a government aggregator and a TPS for an energy aggregation program shall meet all requirements in this subchapter and shall include, at a minimum:

1.-10. (No change.)

11. If appropriate, provisions requiring the TPS to provide certain communications to customers in a language other than English; [and]

**12. A provision that the TPS shall return the customers to the LDC at the end of the government energy aggregation program, or if there are consecutive government energy aggregation programs, the TPS shall return the customers to the LDC at the end of the last consecutive government energy aggregation program;**

**13. A clear description of the customer billing arrangements, which shall include who will bill the customer and whether budget billing will be available. If budget billing is available, the agreement shall provide that a true-up of the account subject to budget billing shall be made at least once every 12-month period during the term of the government energy aggregation program;**

**14. A provision stating that all customer information that is provided to the TPS for the government energy aggregation program shall be deemed confidential and shall not be used or disseminated by the TPS for any purpose other than the facilitation of the government energy aggregation program; and**

[12.] **15. [Any] The contract may contain any other terms and conditions that the government aggregator deems necessary.**

**(b) The contract shall be signed by one or more designated officials from each participating municipality. This task may not be delegated to a person who is not an official from the municipality.**

#### SUBCHAPTER 7. RETAIL CHOICE CONSUMER PROTECTION

14:4-7.4 Marketing standards

(a) In marketing materials provided by the TPS to residential customers for the purpose of persuading the customer to authorize a switch to the TPS for electric generation service or gas supply service, whether such materials are in hardcopy form, electronically or via internet websites, the following information, and that in either (b)1 or 2 below, shall be provided:

1.-7. (No change.)

**8. A clear statement indicating whether or not the TPS offers budget billing[.] and, if so, that there shall be a true-up at least once every 12 months for accounts on budget billing.**

(b)-(o) (No change.)

14:4-7.6 Contracts

(a) A TPS shall not provide electric generation service or gas supply service to a retail customer without the customer's written signature on a contract or such alternative forms of verification identified in N.J.A.C. 14:4-2.3 and as the Board may permit to initiate such service(s), for switching TPSs or for renewal thereof. On or before the date the TPS submits a change order to an LDC, and within one business day of when a customer authorizes a contract renewal, the TPS shall send a copy of the TPS contract to the customer. The TPS may do this by [an] electronic [method] **mail** or by regular mail, at the option of the customer, or if the customer signed up in person, the TPS may hand deliver the contract to the customer.

(b) A TPS contract shall clearly and conspicuously state that the purpose of the document is to authorize a change in the customer's TPS, and include explicit terms and conditions, which shall include, at a minimum:

1.-4. (No change.)

**5. A statement of the TPS's termination rights, which shall explain the specific conditions under which the TPS may terminate service, and that at a minimum the TPS shall provide the customer with 30 days written notice of the termination and an opportunity to remedy the termination condition. The notice shall state the TPS's rights to terminate the contract, regardless of whether the customer remedies the condition that triggered the termination notice; [and]**

**6. No statement that asks any customers to waive any rights they have under New Jersey or Federal Consumer Protection laws[.]; and**

**7. A clear description of the customer billing arrangements, which shall include who will bill the customer and whether budget billing will be available. If budget billing is available, the agreement shall provide that a true-up of the account subject to budget billing shall be made at least once every 12-month period during the term of the contract.**

(c)-(g) (No change.)

(h) A TPS shall file a sample copy of its residential contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and Rate Counsel[, as defined at N.J.A.C. 14:3-1.1]; **and** the initial filing of the sample copy of TPS contract(s) shall include a consumer complaint resolution process[; a]. A TPS shall file a sample copy of subsequent revisions of its contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and Rate Counsel, within three business days. A TPS may elect to file a request for confidentiality for submitted information under the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12.

(i)-(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, <http://www.nj.gov/bpu/>. The TPS Contract Summary shall at a minimum:

**1. Summarize the material terms and conditions of the contract;**

**2. Be available in Spanish upon request of the customer;**

**3. Include instructions explaining how the customer may obtain a Spanish version of the TPS Contract Program Summary;**

**4. Be written in plain language;**

**5. State the duration of the contract;**

**6. State, in a 12-point, boldface font, whether the contract is for a fixed rate or a variable rate;**

**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;**

**8. State the price per kilowatt hour or per therm as instructed in the posted TPS Contract Summary Standardized Format;**

**9. Utilize fonts that are no smaller than 12 point in size;**

**10. Fit on a single 8.5 inch by 11 inch page;**

**11. List the customer's name, address, and local distribution company account number at the top of the TPS Contract Summary;**

**12. Use gas or electric terminology as appropriate. If a customer contracts for both gas and electric supply service, a separate TPS Contract Summary shall be provided for each service;**

**13. Utilize all of the exact headings shown in the boxes on the left side of the posted TPS Contract Summary Standardized Format, except that the first box shall use the word "electric" or "gas" as appropriate instead of "electric/gas"; and**

**14. Include the appropriate information in each of the boxes on the right side of the TPS Contract Summary based upon the specific instructions in the boxes on the right side of the posted TPS Contract Summary Standardized Format.**

(b) The TPS shall conspicuously display the completed TPS Contract Summary at the front of the proposed customer's contract, and provide it to the customer when the customer signs up for service or contracts for a renewal of service in accordance with the provisions for delivery of a TPS contract as set forth at N.J.A.C. 14:4-7.6(a).

(c) The notice that is sent to residential customers pursuant to N.J.A.C. 14:4-6.6(q) with instructions on how to opt-out of an Option 2 energy aggregation program shall include a GEA Program Summary in accordance with N.J.A.C. 14:4-6.6(r)9.

(d) Commercial electric customers with a cumulative peak load of 50 kilowatts or less and commercial gas customers with a cumulative peak load of 5,000 therms or less who are served through a government energy aggregation program established pursuant to N.J.A.C. 14:4-6.6 shall be given a GEA Program Summary before they opt into the program pursuant to N.J.A.C. 14:4-6.6(b).

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

(a) When a TPS purchases another TPS, the accounts of customers of another TPS, or the TPS accounts are otherwise transferred to an affiliate company:

1. The customer shall be notified of the transfer in writing by the acquiring TPS at least 30 days prior to the effective date of the customer switch to the acquiring TPS;

2. The written notice shall advise the customer that the new TPS will serve the customer under the same terms and conditions as the prior TPS;

3. The written notice shall advise that a customer may choose another energy supplier or return to the LDC prior to the account transfer; and

4. The customer shall be served under the same terms and conditions as under the contract with the prior supplier except that the name, address, and other contact information for the TPS may change.

(b) When a TPS ceases operations and does not transfer its residential contracts to another TPS, the TPS shall notify its customers 30 days in advance of the effective date of the customer switch to the LDC. The notice shall contain a timetable for the customer to choose another energy supplier before defaulting to the LDC.

## TREASURY-TAXATION

### (a)

#### DIVISION OF TAXATION

#### Unfair Cigarette Sales Act

#### Proposed Readoption with Amendments: N.J.A.C. 18:6

#### Proposed Repeals: N.J.A.C. 18:6-2.1, 2.2, 2.3, 4.8, 5.6, 6.1, 6.2, 6.3, 6.7, 6.11, 6.12, 6.13, and 7.2 through 7.9

Authorized By: John J. Ficara, Acting Director, Division of Taxation.

Authority: N.J.S.A. 56:7-31.

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

Proposal Number: PRN 2016-193.

Submit comments by February 3, 2017, to:

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The agency proposal follows:

#### Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 18:6 was scheduled to expire on November 13, 2016. As the Division of Taxation (Division) filed this notice of re-adoption with the Office of Administrative Law prior to that date, the expiration date of the chapter is extended 180 days to May 12, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division of Taxation has reviewed these rules and

has determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated.

The Division proposes to re-adopt these rules with necessary amendments to conform the rules to the current provisions of the Unfair Cigarette Sales Act (Act).

The wholesale and retail cigarette industry in New Jersey, prior to the enactment of the New Jersey Cigarette Tax Act of 1948, N.J.S.A. 54:40A-1 et seq., was characterized by severe and intense price competition and many unfair, dishonest, deceptive, destructive, and fraudulent business practices. Cigarettes were advertised, offered for sale, or sold below cost with the intent of injuring competitors or destroying or substantially lessening competition.

The New Jersey Unfair Cigarette Sales Act of 1952, N.J.S.A. 56:7-18 et seq., was enacted as a companion law to the New Jersey Cigarette Tax Act. The purpose of the Unfair Cigarette Sales Act is to prevent unfair competition and unfair trade practices in the sale of cigarettes in New Jersey that would adversely affect the prompt and efficient collection of taxes on the sale of cigarettes and the revenues and fees from licensing manufacturers, distributors, wholesalers, retailers, and other persons engaged in the sale of cigarettes in New Jersey. Further, the New Jersey Unfair Cigarette Sales Act declares the policy of the State of New Jersey to be to promote the public welfare by prohibiting sales of cigarettes below cost.

The original New Jersey Unfair Cigarette Sales Act, P.L. 1948, c. 188, was found to be unconstitutional by the Supreme Court of New Jersey in 1951 (*Lane Distributors, Inc. v. Tilton*, 7 NJ 349). The revised New Jersey Unfair Cigarette Sales Act of 1952, P.L. 1952, c. 247, reenacted the law to correct deficiencies in the original act as specified by the Supreme Court of New Jersey.

The rules proposed for re-adoption are summarized as follows:

Subchapter 1 contains general provisions, including definitions.

Subchapter 2 contains the prohibitions of actions that lessen competition.

Subchapter 3 deals with price lists.

Subchapter 4 sets forth the rules relating to manufacturers' promotional sales plans, including notification to the Division, and the requirement of a vendor to collect sales tax on cigarette sales during promotions.

Subchapter 5 deals with required reports.

Subchapter 6 sets forth the remedies and penalties.

Subchapter 7 contains miscellaneous provisions, including various aspects of sales and pricing, and the powers of the Director.

The Division proposes technical amendments to correct grammar and typographical errors, to substitute plain language, and to recodify rules for the purpose of achieving clarity.

Specifically, the following changes are proposed:

N.J.A.C. 18:6-2.1, 2.2, and 2.3 are proposed for repeal because these rules reiterate the provisions of N.J.S.A. 56:7-20, without further explanation or clarification of any provisions therein.

N.J.A.C. 18:6-3.1 is proposed for amendment to insert a reference to the statutory definitions.

N.J.A.C. 18:6-4.8 is proposed for repeal because the Division's policy no longer requires the collection of sales tax based on the State minimum price for cigarettes.

N.J.A.C. 18:6-5.5 is proposed for amendment to update the address of the Cigarette Tax Audit Branch and to state that records must be preserved for a period of four years, which is the statute of limitations for assessments.

N.J.A.C. 18:6-5.6 is proposed for repeal because modern printing technology and procedures have made this section obsolete.

N.J.A.C. 18:6-5.7 through 5.11 are proposed to be recodified as N.J.A.C. 18:6-5.6 through 5.10.

Recodified N.J.A.C. 18:6-5.7 is proposed for amendment to update the address of the Cigarette Tax Audit Branch.

N.J.A.C. 18:6-6.1 is proposed for repeal because this rule reiterates the provisions of N.J.S.A. 56:7-20(c), without further explanation or clarification of any provisions therein.

N.J.A.C. 18:6-6.2 and 6.3 are proposed for repeal because these rules reiterate the provisions of N.J.S.A. 56:7-32, without further explanation or clarification of any provisions therein.