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NEW JERSEY BOARD OF PUBLIC UTILITIES

Final Readoption With Amendments

N.J.A.C. 14:4, Energy Competition Standards

N.J.A.C. 14:8, Renewable Energy and Energy Efficiency

Effective May 19, 2008

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BOARD OF PUBLIC UTILITIES
Energy Competition Standards
Renewable Energy And Energy Efficiency

Adopted New Rules: N.J.A.C. 14:4-2, 3, 5, 6, and 7; N.J.A.C. 14:8-3 and 4.

Adopted Repeal: N.J.A.C. 14:4-1A

Proposed April 16, 2007, at 39 N.J.R. 1405(a)

Adopted: April 8, 2008, by the New Jersey Board of Public Utilities, Jeanne M. Fox, President; Frederick F. Butler and Joseph L. Fiordaliso, Commissioners.

Filed: April 15, 2008, as R. 2007 d. , with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 48:2-13, 48:3-78 et seq., N.J.S.A. 48:3-49 et seq.

BPU Docket Number: EX05080733

Effective date: May 19, 2008

Expiration date: April 18, 2011

The New Jersey Board of Public Utilities is herein adopting new rules to replace portions of its previously effective Energy Competition Standards at N.J.A.C. 14:4 (also called chapter 4). These rules will implement provisions of the Electric Discount Energy Competition Act (EDECA), N.J.S.A. 48:3-49 et seq., and other statutory authority. The rules will apply to electric power suppliers, gas suppliers, basic generation service (BGS) providers and basic gas supply service (BGSS) providers, electric public utilities, gas public utilities, aggregators, energy agents, energy public utilities and public utility holding companies. This adoption also repeals existing N.J.A.C. 14:4-1A, which contains anti-slamming provisions, and replaces it with a new anti-slamming subchapter at N.J.A.C. 14:4-2.

The previous rules governing these matters, N.J.A.C. 14:4, were proposed for readoption with amendments in the New Jersey Register on October 17, 2005. (See 37 N.J.R. 3911(a)). Portions of the 2005 readoption proposal were adopted on May 15, 2006. The remainder of the proposed readoption was not adopted, so the previous rules and the remainder of the rules expired in 2006. To revive the rules and render them effective once again, the Board proposed the expired subchapters as new rules on April 16, 2007 at 39 N.J.R. 1405(a). On November 5, 2007, the licensing and registration subchapter, N.J.A.C. 14:3-5, was adopted. The adoption published herein

includes the remaining subchapters, which are N.J.A.C. 14:4-2 energy anti-slamming, N.J.A.C. 14:4-3 affiliate relations, N.J.A.C. 14:4-6 governmentt energy aggregation progrmas, N.J.A.C. 14 :4-7 retail choice consumer protection, N.J.A.C. 14:8-3 environmental information disclosure, and N.J.A.C. 14:8-4 net metering and interconnection standards for class I renewable energy systems.

Summary of Public Comments and Agency Responses:

The following persons submitted timely comments on the proposal:

1. Jason S. Austin, Suez Energy Resources (SER);
2. John L. Carley, Consolidated Edison Company of New York, Inc., on behalf of Rockland Electric Company (REC);
3. Michael D'Angelo, Intelligent Energy (IE);
4. Craig G. Goodman, National Energy Marketers Association (NEM);
5. Marc B. Lasky, Thelen Reid Brown Raysman & Steiner, on behalf of Jersey Central Power & Light Company (JCP&L);
6. Jodi L. Moskowitz, Public Service Electric and Gas Company (PSE&G);
7. Philip J. Passanante, Atlantic City Electric Company (ACE);
8. Angela Schorr, Eonnergy Energy Company (EEC); and
9. Felicia Thomas-Friel, New Jersey Department of the Public Advocate, Division of Rate Counsel (RC).

General comments:

1. **COMMENT:** We previously submitted comments on the rules that were proposed for readoption with amendments in December 2005. We note that the Commission did make certain rule revisions to reflect concerns voiced by the marketer community in the prior rulemaking. We appreciate the Commission's consideration and balancing of stakeholder comments received. (NEM)
RESPONSE: The Board appreciates the commenter's support for the Board's efforts.
2. **COMMENT:** We applaud the Board's efforts in the difficult task of creating rules and regulations which maintain customer protection, yet permit maximum flexibility for TPSs and their offers, and allow the competitive market to function properly. (IE)
RESPONSE: The Board appreciates the commenter's support for the rules.
3. **COMMENT:** In order to ensure that all interested parties are properly informed of such proceedings, we request that the Board order the creation of one "master" e-mail distribution list for all notices, filings, proceedings and proposals. As previously noted, Third Party Suppliers ("TPSs") can offer insight, knowledge and experience based on lessons learned not only in New Jersey but also from other markets. In addition, TPSs can be severally impacted by the outcome of these proceedings and therefore must remain involved in the process. As the Board already noted in a previous response to a similar request, notifying individual groups of every proposed change may be an inefficient use of the Board's resources, however the maintenance of a single e-mail distribution list would not seem to overburden the Board's

resources. Parties would be responsible for voluntarily adding or removing themselves from this list via e-mail, and as a result little or no maintenance would be required once such a plan is implemented. Clearly in today's information age, such electronic notification seems to be a logical and prudent solution and would likely increase efficiency for all parties, including the Board's. While a list server already exists in the energy sector, it does not seem to be highly utilized as merely sending out one email can more than adequately notify numerous other desired participants of an important proceeding. Although email notification is certainly not legally required by the BPU, it is a useful low cost way of keeping the energy industry informed and numerous other states have successfully implemented similar means of notification. We request the Board to order the creation of a "Master Service List" for ALL future Board notifications, requests for comment, etc. (IE)

RESPONSE: Please see the response to comment 4. COMMENT: below.

4. COMMENT: We request that any information pertaining to potential rule amendments be circulated via an email distribution list. While it is not our expectation to have the Board notify each and every party independently, a centralized distribution list could be easily maintained and would be a useful communication tool for all parties involved. Each individual party could sign themselves up on the list and remove themselves from the list if they no longer wish to obtain the notifications. All of the other states that we operate in maintain such a list and it is very useful in communicating important issues. (EEC)

RESPONSE: The Board agrees that the knowledge and experience of stakeholders is invaluable in the development of effective rules. In fact, as described in the proposal (see 39 N.J.R. 1405), the Board conducted extensive stakeholder outreach on these rules prior to publishing the first proposal of these rules in the New Jersey Register. In addition, the Board made the instant rule proposal available for 90 days (on the BPU website) and 60 days (in the New Jersey Register) before the close of the comment period. While the Board does not recommend that commenters rely solely on informal stakeholder outreach to keep apprised of rulemaking at the Board, the Board has begun developing a list of interested parties, to whom notice of all Board rule proposals will be sent by e-mail. Although Board staff will continue to make every effort to inform stakeholders about upcoming Board rulemakings, any business for which rules are a crucial component should regularly monitor the New Board's website and the New Jersey Register, as those are the official outlets for public notices regarding New Jersey rules. To be placed on the Board's list of interested parties for rulemaking notices, any person can send an e-mail to rule.comments@bpu.state.nj.us.

5. COMMENT: Many of the rules included in this rulemaking are outdated and we salute the Board for working toward making some well needed improvements. Allowing all parties to comment on these rules also enables all the players in this market to bring their expertise to the table in order to work toward increasing competition thereby allowing customers to have more options in their energy choices. (EEC)

RESPONSE: The Board appreciates the commenter's support for the rules.

6. COMMENT: While we appreciate the Board's effort to ensure strong consumer protections, we are concerned that the cumulative effect of these changes (or in some cases lack of changes) will be to impede the ability of marketers to operate effectively in New Jersey and will negatively impact competition within the State. (EEC)

RESPONSE: The Board has attempted to strike the best possible balance between the interests of consumer protection and competition.

CHAPTER 4 ENERGY COMPETITION STANDARDS

N.J.A.C. 14:4-2 ENERGY ANTI-SLAMMING

7. COMMENT: N.J.A.C. 14:4-2.5, pertaining to energy licensing and registration, is applicable to Clean Power Marketers. Yet, the anti-slamming provisions in Subchapter 2 are only applicable to electric power suppliers and natural gas suppliers. We recommend that the language of the proposed regulations be modified so to make the inclusion of Clean Power Marketers clear. (PSE&G)

RESPONSE: The Board is aware that there may be a potential for slamming type problems with marketing and enrollment practices of CPMs. However, including CPMs in the anti-slamming rules would be a substantive change requiring a further rule proposal. In addition, the Board also must consider whether other provisions currently applicable to TPSs should be applied to CPMs. The Board may also determine that additional public input on this issue is necessary. After considering these issues, the Board will determine whether to extend the anti slamming provisions to CPMs and will consider issuing a rule proposal in this regard.

8. COMMENT: New Jersey LDC tariffs require that a TPS notify the LDC twenty calendar days before a customer's next meter read cycle date if the customer has elected to switch electricity providers. We request that the Board consider reducing the notification period in LDC tariffs for commercial and industrial customers to seven days before the next meter read as sufficient time for an LDC to complete a commercial or industrial customer enrollment or switch. The Board should modify the standard enrollment window for larger commercial and industrial customers who have no right of rescission and do not require the same level of consumer protection as residential customers. Shorter enrollment windows equate to more time for customers to evaluate TPS products and services prior to an existing contract expiration/meter read date. In fact, several other markets have shorter meter cycle lead time notification standards for their commercial and industrial customers. For example, in Texas, non-residential customers above 50kW can be switched in four business days. In Maine and Massachusetts a switch can be accommodated in as low as two business days. This reduced enrollment lead time would benefit commercial and industrial customers in New Jersey. (SER)

RESPONSE: The requirement to which the commenter refers is not found in these rules, but in tariffs. Tariffs are a more appropriate mechanism for addressing this issue because there are several variables that may influence the appropriate

notification deadline for a particular utility, including the utility's billing cycle, computer system, and customer demographics. Should a TPS negotiate a different notification period with a utility, the utility can then submit a tariff amendment to the Board in accordance with N.J.A.C. 14:3.

9. **COMMENT:** The proposed rules define a "change order" as a request "to switch the customer from one provider of electric generation service or gas supply service to another provider." We request that the Commission clarify whether this is in addition to the current EDI enrollment process. There is no need to duplicate the EDI process. Moreover, the likelihood of small variations in customer spelling of names, addresses etc. from utility records could mean the unnecessary rejection of numerous submissions. The Commission should clarify that the data elements are applicable only to the utility response to a valid change order request. (NEM)
RESPONSE: Please see the response to comment 10. **COMMENT:** below.

10. **COMMENT:** Proposed N.J.A.C. 14:4-2.3(g) states that change orders "shall" contain certain specific customer information. We recommend that the word "shall" be changed to "may." We believe that the specific fields contained within a particular EDI transaction should not be prescribed, but should be instead left to the BPU to determine in approving EDI standards. The Board must have the ability to modify EDI transactions as may be necessary in the future, and a prescriptive approach as is proposed in N.J.A.C. 14:4-2.3(g) would undermine the Board's flexibility in this area. We request that the Board remove N.J.A.C. 14:4-2.3(g) entirely, since N.J.A.C. 14:4-2.3(b)1 and the existing EDI documents already define what is to be contained in a valid change order request, or at the very least clarify that N.J.A.C. 14:4-2.3(g) only applies to the utility response to a valid change order request. (IE) (EEC) (PSE&G)
RESPONSE: As proposed and adopted, N.J.A.C. 14:4-2.3(b) requires that all change orders be transmitted via EDI. The content requirements at N.J.A.C. 14:4-2.3(g) state the basic information that must be included in the EDI-transmitted change order. Therefore, the customer information listed in (g) is not in addition to the content requirements in the Board's EDI protocol, but rather is a general description of that content. **This has been clarified by a slight modification to (g).** The rule is intended to set a minimum content requirement for EDI change orders, and therefore the term "shall" has not been changed to "may" as suggested.

11. **COMMENT:** TPSs are required to obtain all kinds of information for a change order, yet none of these requirements seem to apply to the LDCs. Customer protections should not be only for TPSs. If a customer is considering switching to an LDC it would seem only fair to apply all of the rules that inform and protect customers to switches back to the LDC. If for example a customer is with a TPS on a fixed rate of 90 cents per therm for the next 3 years and the utility just had a Board approved rate of \$1.20 per therm the customer should be informed of the LDC's rate so the customer can make an informed decision. Yet, the LDC does not have to tell the customer anything. All of the Boards switching, change order, advertising, marketing and consumer protection regulations apply to all LDCs. Merely because the LDC is

the provider of last resort, should not allow customers to switch without proper information and consumer protections being followed. (IE)

RESPONSE: The chapters being readopted herein (N.J.A.C. 14:4 and 8) deal with energy competition. LDCs are not engaged in energy competition, but are fully regulated by the Board under several other legal instruments, including the Board's rules for all utilities (found at N.J.A.C. 14:3), company-specific tariffs, and Board orders arising from various proceedings including rate cases. Under these various mandates, the Board imposes extensive consumer protection requirements upon LDCs, which are generally equivalent to, and in many cases more stringent than, the requirements in this chapter.

12. COMMENT: Several commenters requested the elimination of third party verifications. However, the readoption proposal seemed to indicate that the Board could not eliminate such a requirement and that both FCC rules and New Jersey statutes require an independent third party verification recording. N.J.S.A. 48:3-85a(1) does not mandate an independent verification recording to have a valid enrollment. The section merely requires that some form of verification is needed to ensure the customer's desire to switch providers, it makes no mention of an independent third party verification ("TPV") recording. It does provide, however, that the Board can create the form/method required to allow a customer to switch such as a customer's signature or whatever the Board and the Division of Consumer Affairs may permit. Additionally, FCC rules do not require the Board to have independent third party verification recordings as claimed. 47 CFR 64.1120 only applies to telecommunications carriers and does not apply to the natural gas industry. Therefore the Board does have the power to initiate a proceeding which may at least allow further discussion on the benefits/drawbacks of requiring an independent TPV for a customer's switch. Many states do not have a TPV requirement and still have no slamming issues. We request the Board to initiate a proceeding to more fully and fairly consider the issue since it definitely has the power to do so and is not prevented by state or federal law. (IE) (NEM)

RESPONSE: As explained in the response to comment 9 in the April 16, 2007 proposal, N.J.A.C. 14:4-2.3(c)5 provides the TPS with several options for verifying a change order. These options are taken directly from N.J.S.A. 48:3-85a(1). One of the options is for an audio recording of a telephone call "initiated by the customer" (emphasis added). Another option is an "independent, third-party verification ... of a telephone call initiated by an electric power supplier, gas supplier or private aggregator..." In both of these cases, the Legislature provides for the use of telephone calls for switching only with conditions clearly designed to protect the consumer. The commenter is correct that the statutory provision authorizes the Board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, to permit alternative forms of verification. However, the Board shares the Legislature's caution, and has determined not to authorize alternative forms of verification at this time. Third party verification ensures protection of customers from the types of pressure and confusion that may result in slamming. Therefore, the commenters' suggested change has not been made.

13. COMMENT: The proposed rules require retention of the “exact copy” of the screen image of the customer’s acceptance of the terms of service. (Sections N.J.A.C. 14:4-2.4(e) and N.J.A.C. 14:4-2.5(b)). We submit that given the differences in computing systems that consumers use, that requiring marketers to reproduce an “exact copy” of what each consumer saw could be impossible to comply with. A more reasonable standard would be to permit marketers to retain a copy of the data that was sent to the consumer’s computer or electronic device comprising his or her acceptance of terms of service. This would allow marketers to comply notwithstanding variations in consumers’ computing systems. (NEM) (IE)

RESPONSE: Please see the response to comment 14. **COMMENT:** below.

14. COMMENT: N.J.A.C. 14:4-2.4(e) requires the TPS to “retain an exact copy of the image of the acceptance screen, which shows that the customer accepted the TPS’s terms of service when the customer signed up for or renewed service, or changed the TPS. ” Our Information Technology Department has determined that this requirement would be impossible to carry out since the exact copy of the acceptance screen is found only on the customer’s computer. Instead, we recommend capturing the date and time of the acceptance and the version of the terms and product that the customer accepted. This would provide the necessary proof of the transaction and could be stored for future reference. This is the type of information that is required in other states. For the same reasons, N.J.A.C. 14:4-2.5(b), which states that an exact copy of the screen image should be kept for three years, should be removed. (EEC)

RESPONSE: After researching this issue, the Board agrees that an exact copy of each customer’s screen image is virtually impossible for the TPS to provide. Therefore, both N.J.A.C. 14:4-2.4(e) and 2.5(b) have been modified upon adoption to require that the TPS record the date and time of the customer’s acceptance, the service accepted, and the terms and conditions accepted. In addition, N.J.A.C. 14:4-2.4(f) is deleted to avoid redundancy.

15. COMMENT: Proposed N.J.A.C. 14:4-2.4 addresses the electronic process by which TPSs sign up customers. Yet, the term “LDC” is used throughout the section. Use of this term is not appropriate. Our electronic transactions involving “signing up or switching customers” do not in fact involve the customer at all – We only deal electronically with the TPS with regard to “switching”. Yet, the language of this section is written so to as make clear that the intent is to protect the customer in these transactions. Thus, we recommend removing the reference to “LDC” in this section and also recommends changing the title of the section to make it clear that the section addresses only the electronic customer/TPS sign-up process. (PSE&G)

RESPONSE: The inclusion of LDCs in this section was an error. As stated in the proposal summary at 39 N.J.R. 1405, this section was intended to codify the substance of an order signed by the Board on September 12, 2000, I/M/O The Electric Discount and Energy Competition Act of 1999- Internet Enrollment Program; Docket Nos. EX94120585Y et al. and GX99030121 et al. That order set forth internet enrollment procedures and requirements for TPSs, and did not cover LDCs. However, the proposal erroneously included LDCs in this section. Therefore, the section has been modified upon adoption to delete references to LDCs so as to

accurately reflect the Board order as intended. The Board believes that the heading as proposed accurately represents the contents of the section, and no specific mention of TPSs is required in the heading.

16. COMMENT: Proposed N.J.A.C. 14:4-2.5(c) requires the LDC to submit quarterly reports to the Board "containing all slamming complaints received." Yet, we believe that this quarterly reporting requirement is not necessary if no slamming complaints are received in a given quarter. Thus, we recommend that the language be revised to only require such reports to be filed by the LDC when an actual slamming complaint is received during that quarter. (PSE&G) (REC)

RESPONSE: The intent of this provision was consistent with the commenter's suggestion. The provision has been clarified accordingly upon adoption.

17. COMMENT: N.J.A.C. 14:4-2.6(c) and 14:4-2.7(a) are confusing and inconsistent. N.J.A.C. 14:4-2.6(c) directs an LDC that receives a complaint from a customer about a pending or processed change order to immediately refer the customer to either the TPS for dispute resolution or to the Board Staff for a customer complaint. Because change orders initiate the process of switching customers to a TPS, a complaint regarding a change order may be a slamming complaint. However, N.J.A.C. 14:4-2.7(a) provides that a customer that believes it has been the victim of slamming may contact the TPS and/or the LDC to resolve the problem. It seems pointless to have the customer contact the LDC if the LDC is required pursuant to N.J.A.C. 14:4-2.6(c) to direct the customer to the TPS. N.J.A.C. 14:4-2.6(c) should be revised to provide that the LDC may attempt to resolve the complaint and if unable to do so, should refer the customer to the TPS or Board Staff. (REC)

RESPONSE: The Board has revised N.J.A.C. 14:4-2.7(a) upon adoption to correct this inconsistency. In addition, N.J.A.C. 14:4-2.6(c) has been clarified to ensure that an LDC will provide a complaining customer with information regarding contacting both the Board and the TPS.

18. COMMENT: N.J.A.C. 14:4-2.7(b) states that if a customer alleges slamming, the portion of the customer's bill that relates to the TPS's services shall be considered to be in dispute starting on the date of the switch. The rules do not clearly define the process by which the status of these charges will change from "in dispute" back to regular charges. If we do not hear back from the customer or the Board after several months, we have to take additional action to determine whether or not the complaint has been satisfied. There should be a process by which these complaints are formally closed and resolved by the Board. We recommend that the rules specify that after proof is provided, the charges go back on the utility bill from the moment that the TPS began serving energy to the customer. If the LDC has a purchase of receivables program, the monies owed should be purchased under this program. To permit a customer to place charges in limbo on their own word, in the face of other evidence, places the debt owed to the TPS on a lower level than the distribution charges of the local utility. The time of a slamming dispute must also be taken into account. If a customer claims slamming a number of months after a TPS had begun serving them in good faith, they have been taking service, perhaps knowingly, for a

longer period of time than they would had the complaint been rendered promptly.
(EEC)

RESPONSE: The Board has clarified this provision to indicate that the procedures that apply to a utility with charges in dispute would also apply to a TPS in the same situation. These procedures are found in the Board's rules for all utilities at N.J.A.C. 14:3-7.6, which is being adopted in this issue of the New Jersey Register. The Board's rules for all utilities, at N.J.A.C. 14:3-7.6(e), require that Board staff notify the LDC when the dispute is resolved. As the TPS would step into the shoes of the LDC, the same notice would be provided to the LDC. Regarding the commenter's suggestion that, when a complaint is resolved in favor of the TPS, the complaining customer should be required to pay charges from the moment that the TPS began serving the customer, this change has not been made. First, this is not necessary, as Board staff can require this, if appropriate, in a particular case as part of the resolution of the case. Second, there may be cases in which a compromise is the most appropriate resolution of a slamming complaint. The suggested change would deprive the TPS and the Board of the flexibility they would need to reach such a compromise.

N.J.A.C. 14:4-3. AFFILIATE RELATIONS

19. COMMENT: We note that the proposed rules for Subchapter 3 (Affiliate Relations) refer to "the Public Utility Holding Company Act of 1935, or its successor" ("PUHCA '35"). As you are aware, PUHCA '35 was repealed in or about February 2006. In addition, the proposed rules refer to the United States Securities and Exchange Commission or its successor as the appropriate regulatory entity. Although the reference to a "successor" regulatory agency adds interpretive flexibility to the regulation, jurisdiction was transferred to the Federal Energy Regulatory Commission in or about February 2006. (ACE)

RESPONSE: While the definition is accurate as proposed, the Board has updated the references the commenter describes, for clarity.

20. COMMENT: N.J.A.C. 14:4-3: The Affiliate Standards are convoluted, too detailed and overly complex in approach, particularly when compared to corresponding rules adopted by the Federal Energy Regulatory Commission ("FERC") and in many other states, such as Pennsylvania, and, indeed, when compared to the corresponding rules adopted in 1996 for the gas industry in New Jersey, which have not required further tinkering. A thorough review of the Affiliate Standards is warranted. The Board made a commitment at the time of their readoption in 2002 for a "complete review" of the Affiliate Standards "at a later date" (34 N.J.R. 3232 (September 16, 2002)) and in a similar statement in Comment 26 with respect to the current proposal. We request that the Board initiate that outreach in the near future. (JCP&L)

RESPONSE: The Board agrees that these rules should be reviewed, and that amendments should be considered. The Board does not at present expect that major changes will be needed, but has been unable to accomplish the review and amendment process due to workload constraints. However, the Board anticipates

conducting stakeholder outreach with utilities, competitors and the public, in order to determine what changes may be needed.

21. COMMENT: N.J.A.C. 14:4-3.1(a)1 applies the Affiliate Standards in N.J.A.C. 14:4-3.3 through 3.5 to any holding company affiliate that is "providing or offering competitive services to retail customers in New Jersey." It is not necessary for the Affiliate Standards to apply to affiliates engaged in totally unrelated businesses. Such restrictions on these other affiliates would handicap them in their struggle to compete in unrelated businesses, to the ultimate detriment of consumers, but would in no way assure open access to retail electric and gas markets, or advance the objective of fostering competition in those markets. For example, no useful purpose would be served by applying these restrictions to a provider of telecommunications services. This issue has arisen in connection with a number of competitive service audits in recent years. Other than the continuing concern about cross subsidization, which the Board has always monitored through its pre-existing authority, the restructuring of the electric and gas industries does not provide any basis to modify the Board's historical "hands off" approach to affiliates' activities in businesses unrelated to the retail sale of electricity and gas. These "scope" issues have continued to arise in connection with various audits of the utilities' competitive services offerings. Revising the Affiliate Standards to apply only to affiliates engaged in the retail sale of electricity and gas would go a long way towards eliminating these unnecessary, contentious and costly disagreements. We also note that the FERC code of conduct, the 1996 New Jersey gas code of conduct and codes in other states, such as Pennsylvania, clearly relate only to sales of gas and electricity, but not to other unregulated businesses. (JCP&L) **RESPONSE:** These provisions are necessary and appropriate to clearly state important limits on the relations of public utilities and their holding company affiliates. The Board believes that it is necessary to apply these rules to utility affiliates engaged in businesses other than retail electric or gas sales. An affiliate engaged in retail sales of other goods or services could take advantage of a utility's resources in such a way as to gain a competitive advantage over non-affiliates, and this advantage may in some cases be gained at the ratepayers' expense. For example, if a utility has an affiliate that provides billing services, and the utility and the affiliate jointly purchase paper and postage, this could reduce the affiliate's operating costs, giving the affiliate a competitive advantage over other billing services. These rules were promulgated in order to address past problems observed by Board staff, and, despite the commenter's assurance that the Board has "pre-existing authority" to address cross-subsidization, the Board believes that these rules are still necessary. The provisions are carefully crafted to ensure that they do not exceed the Board's authority.

22. COMMENT: N.J.A.C. 14:4-3.4(h) appears to require an LDC to maintain records documenting every transaction that it engages in with its related competitive business segment, including those related to day-do-day retail access activities. Read literally, this provision would require an LDC to maintain a record of: (a) each and every EDI transaction; (b) every time its affiliate calls and asks a questions about its Third Party Supplier Agreement or its Third Party Supplier Customer Account Services Master

Service Agreement; (c) every conversation or e-mail with an affiliate regarding a customer billing issue or creditworthiness; and (d) every time an LDC makes even the most mundane or routine of contacts regarding on-going business matters with other TPSs participating in its retail access program. While documentation of waivers, discounts, and exceptions may be appropriate, documentation and record-keeping of routine transactions that an LDC would engage in with any TPS in its service territory is inefficient and unrealistic. Accordingly, this provision should exclude routine administrative transactions. (REC)

RESPONSE: The Board is aware that these rules impose some recordkeeping requirements on utilities that choose to affiliate with non-utility entities. However, the Board has determined that the requirements are necessary in order to ensure that no utility gives a competitive advantage to its affiliate, and to guard against cross-subsidization.

23. COMMENT: N.J.A.C. 14:4-3.5(o)2 and 3 preclude utilities from engaging in joint communications, trade shows, conferences and marketing events held in New Jersey with its competitive business segment. There is no exception to this prohibition, however, for promotional activities to which all TPSs are invited to participate. Our parent company has had considerable success promoting retail access at Home Shows, Energy Fairs and Market Expos to which all TPSs were invited to participate. Therefore, this section should be revised to include an exception for promotional activities which include, on a non-discriminatory basis, all TPSs, including related competitive business segments, doing business in the LDC's service territory. (REC)

RESPONSE: Even if an event is open to all TPSs, it is important that a utility-affiliated TPS not engage in any joint participation with the utility, so as not to imply that the TPS represents the utility in any way. The rule has been modified upon adoption to more clearly describe the meaning of the term "joint participation."

N.J.A.C. 14:4-7. RETAIL CHOICE CONSUMER PROTECTION

24. COMMENT: One of the reasons for deregulation is the interplay of companies that are nimble enough to design and price customized products that are tailored to meet customer needs. For example, some marketers in Texas offer airline miles or energy rewards with enrollment wherein the marketer offer may not be the lowest price but clearly offers additional value. Marketing and advertising standards should not institute a price disclosure paradigm that places innovation at a competitive disadvantage by making a superior product offering look like a higher priced commodity. Moreover, it may be impossible to express the value-added component of some competitive offerings. A consumer could be offered a valuable enough package of services that the energy component is deeply discounted or free. (NEM)

RESPONSE: Please see the response to comment 28. COMMENT: below.

25. COMMENT: N.J.A.C. 14:4-7.3(c)1 and 7.4(a)1 require that TPSs include in advertisements and marketing materials the average price per Kwh or per therm over the term of the contract. Since TPSs offer innovative products such as long term fixed rates with durations of three years or more, this rule is impossible to comply

with and should be removed. Future utility pricing could potentially change with board approval or because of certain provisions in utility rate filings. This rule seems to prohibit TPSs from offering unique and innovative products which could greatly benefit the customer and the goals of deregulation. (IE)

RESPONSE: Please see the response to comment 28. COMMENT: below.

26. COMMENT: We recommend that the Board modify N.J.A.C. 14:4-7.3(c)1 as follows, and make parallel modifications to N.J.A.C. 14:4-7.4(a)1 as well:

(c) A TPS shall include in its advertisements of a general nature, via electronic, radio and/or television medium, the following:

1. A toll-free or local telephone number that a customer may call or website that a customer may access to request detailed information concerning the average price per kWh for, and environmental characteristics of, electric generation service or average price per therm, for gas supply service over the term of a contract, if known, for the service being offered, exclusive of any charges for any optional services other than electric generation or gas supply service; (IE)

RESPONSE: Please see the response to comment 28. COMMENT: below.

27. COMMENT: N.J.A.C. 14:4-7.4. We find the marketing standards to be onerous. The purpose of these standards is to provide customers with adequate information about the product. These standards act as a barrier to offering different types of products (fixed rate, capped rate, etc.). They are also misleading to customers and create frustration and confusion. N.J.A.C. 14:4-7.4(a)1 states that we need to provide "The average price per kWh for electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered. . ." One of our primary products is a variable rate product. In the case of variable rates, that may vary month-to-month based on market conditions, the only way to provide this information is to estimate it. An estimation of a variable rate for a one-year or two-year term will most likely not equal the actual price over time. This will lead to customer frustration and confusion since the actual price will vary each month to coincide with the market. In the case of a variable rate, other states simply require us to explain what the current rate is, how often it can change and the reasons that it will change. Specific details regarding an estimate of the price for several different usage brackets for each month of the year (as required in N.J.A.C. 14:4-7.4(b) 2) should be eliminated. In N.J.A.C. 14:4-7.4(a)4, the LDC's rates would also have to be projected throughout the term of the contract. Since LDCs may now change their rates several times per year, it would be impossible for a TPS to create an accurate estimate. All of these estimations in price will not be a good example of any potential price savings or any indication of actual prices charged. This again causes undue confusion and frustration for customers and does not in any way provide the customer with a clear indication of what the pricing will be like the duration of the contract. N.J.A.C. 14:4-7.4(b) also discusses providing estimated savings calculations to customers. Again, in the event of a variable price customer where rates may fluctuate from month-to-month, this information is simply not going to represent a true image of what the savings potential is truly going to be like. Additionally these types of comparisons

make it a hindrance to offer other value added propositions to customers. Customers who prefer to lock into a fixed rate so that they have piece of mind knowing that their rate will not go up may be disappointed when seeing that fixed rate compared to the utility's fluctuating rate. This turns out to not be an apples-to-apples comparison, again causing frustration and confusion among customers. New Jersey is the only state where we operate that requires this information to be included in marketing materials and this requirement should be eliminated. In the beginning of deregulation, when prices were more stable and discounts to the utility were more common, this made sense. At the current time, such rules do not work well for either customers or TPSs. (EEC) (NEM)

RESPONSE: Please see the response to comment 28. COMMENT: below.

28. COMMENT: We recommend that N.J.A.C. 14:4-7.4(b) be deleted as this rule is impossible to comply with, contrary to the goals of retail market development, duplicative and outdated. Note that a violation of this regulation could lead to a suspension or revocation of a TPS's ability to conduct business in New Jersey, as per N.J.A.C. 14:4-2.8(b)1. As a result a TPS faces the choice of limiting its advertised rate offers or facing license revocation. Such rules are contrary to the spirit of competition. (IE)

RESPONSE: to comments 24. COMMENT: through 28. COMMENT: N.J.A.C. 14:4-7.3(c)1 requires that TPS advertisements include a telephone number at which a customer can obtain detailed information regarding the average price of energy over the term of a contract. This would require that the TPS calculate an actual dollar amount only when possible, but not in all cases. In a contract under which the price will vary according to a factor whose absolute value cannot be determined at the start of the contract, the TPS could provide a detailed description of the formula by which the customer's charges would be determined, perhaps accompanied by an estimate of the average price under various different usage scenarios.

N.J.A.C. 14:4-7.4(a)1 requires that the TPS disclose the average price of energy over the term of a contract. The Board agrees with the commenter that, in cases of variable price contracts, it is not possible for the TPS to provide this information. Therefore, N.J.A.C. 14:4-7.4(a)1 has been modified upon adoption to match N.J.A.C. 14:4-7.3(c)1 – that is, to require the TPS to provide a telephone number at which a customer can obtain detailed information regarding the average price of energy over the term of a contract. This will provide the customer with the most accurate pricing information possible at the start of the contract. N.J.A.C. 14:4-7.4(a)4 requires the TPS to provide the average LDC price for energy over the term of the TPS contract. The Board agrees with the commenter that this may not be possible in some cases, due to the possibility that LDC rates will change during the contract term. However, in a case where this is not possible, the TPS can, under N.J.A.C. 14:4-7.4(c), petition the Board to authorize the TPS to provide other information that would provide customers with a more accurate understanding of potential savings. Again, this alternative information might be a formula rather than a dollar amount, if necessary to accurately convey pricing to customers. This option to provide alternative information also applies to the requirement at N.J.A.C. 14:4-7.4(b) to provide an estimated percentage savings or a detailed formula for comparison with predicted LDC prices.

If the TPS can demonstrate to the Board under N.J.A.C. 14:4-7.4(c) that other information will provide customers with a more accurate understanding of likely pricing conditions, the TPS can obtain Board approval to use that other information in lieu of the information required under N.J.A.C. 14:4-7.4(b). The rule has been modified upon adoption to specify that a petition may be submitted to the Board requesting such a determination. One commenter stated that the price disclosure requirements "...seem to prohibit TPSs from offering unique and innovative products..." On the contrary, these requirements do not restrict the types of products a TPS may offer. They merely require disclosure of certain key pricing information in advertising and marketing materials. The TPS can supplement the required information with additional pricing details and explanations in order to clarify the value of the TPS products in relation to those of the LDC. This also applies to the comment stating that, under these rules, "...it may be impossible to express the value-added component of some competitive offerings," and also to the comment that the rule "...places innovation at a competitive disadvantage by making a superior product offering look like a higher priced commodity." TPSs are always free to add information to their advertisements and marketing materials to illustrate for customers why the TPS product may be better than the LDC product even if the price does not obviously show this. Finally, a reference to rate reductions under EDECA has been deleted from N.J.A.C. 14:3-7.4(b) upon adoption, as these rate reductions have already occurred and are no longer relevant.

29. COMMENT: We recommend that the Board modify N.J.A.C. 14:4-7.3(c)2 as follows, and make parallel modifications to N.J.A.C. 14:4-7.4(a)6 as well:

2. If the advertised offer is limited to certain LDC(s), [T]he LDC(s) in whose service territory(ies) the TPS's offer is valid is offering services. (IE)

RESPONSE: The Board has added the option for a TPS that serves all of New Jersey to so state in its advertisements, rather than listing all LDCs. This option would accomplish the same goal of informing the customer, in a simpler and clearer way. In addition, a phrase is deleted from N.J.A.C. 14:4-7.4(c)1, as the phrase is redundant with the definition of the term "optional services".

30. COMMENT: As part of the marketer license application and renewal processes a certification of compliance with retail choice consumer protection rules is required. (N.J.A.C. 14:4-5.3(b)(14) and N.J.A.C. 14:4-5.7(d)(8)). In the Board's section-by-section summary of the proposed rules it notes that, "there is no requirement that TPSs submit the marketing materials themselves, or any additional documentation of compliance beyond the certification." (page 21). Marketer certification of compliance should clearly be sufficient to protect the public interest, and we appreciate the Board's resolution of this issue. (NEM)

RESPONSE: The Board appreciates the commenter's support for the rules.

31. COMMENT: N.J.A.C. 14:4-7.4(a) and (b) should specify that the LDCs have no obligation to facilitate the TPS's compliance with the Board's price comparison requirements. In other words, an LDC's responsibility to make price information

available to a TPS should be limited to the filed tariffs and rate schedules that are routinely posted on an LDC's website. (REC)

RESPONSE: Nowhere do these rules state or imply that LDCs have any obligation to facilitate the TPS' compliance with the Board's price comparison requirements. Therefore, the Board does not believe it is necessary to make the commenter's suggested addition to the rule.

32. COMMENT: The 14 calendar-day right of rescission period in N.J.A.C. 14:4-7.6(b)4 is much longer than the industry standard. The standard in nearly every other state we operate in is 3 business days from receipt of the terms and conditions. It is based on the FTC's Federal 3-day rescission time for contracts. The 14 calendar days puts the TPSs at risk, especially when offering a fixed or cap rate product. The TPS is locking into the supply upon the customer's authorization. In these times of record-breaking market volatility, the price can change dramatically in 2 weeks therefore increasing risk and making it more costly to do business in the state. Additionally, consumers have complained of the long delays in processing their enrollments. Were this to go away, we could cut the delay in half. The three business days in other jurisdictions is from the time the customer receives the terms and conditions that govern their contract. Customers may receive the terms and conditions immediately upon the sale, or in the mail, via an email confirmation, etc. The right of rescission begins the minute that the customer receives the terms. This provides adequate time for customers to look over the information and decide whether they want to go through with the deal. (EEC) (NEM)

RESPONSE: This requirement has been in effect for some time. In Board staff's experience, the provision has been successful in ensuring protection of residential utility consumers without imposing an undue burden on the regulated community.

33. COMMENT: N.J.A.C. 14:4-7.6(b)5 requires a TPS contract statement that "at a minimum the TPS shall provide the customer with thirty days' written notice of the termination and an opportunity to remedy the termination condition." We recommend the NJBPU shorten the 30-day notification requirement in cases of non-payment, specifically for larger commercial and industrial customers. While other parties made similar recommendations in response to the 2005 Proposal, they were not specific to larger commercial and industrial customers who likely have established internal methods for remedying non-payment of business-to-business contractual obligations. By the time a TPS takes the step of providing termination notice to a customer due to non-payment, the TPS already has taken on significant financial exposure to that customer. The standard payment cycle is for customers to be billed in the month following service. For example, if a customer begins service on May 1, it will not receive its first TPS bill until early to mid June. As in other services, customers are given time before payment is due - typically 15 to 30 days. Assuming that the bill was delivered June 8th and payment is due on June 25th, at the point when the bill for May is due, the customer has now been served for the prior calendar month (31 days in May) and for the 25 days of the month in which payment becomes due. All totaled, the TPS will have served the customer fifty-six days before payment is due for the initial 31 days of service. If customer payment is not received on the 56th day, the

TPS will have to follow a contract-specific schedule to notify the customer that its late payment is jeopardizing its service. Common cure rights for business to business payment obligations range from two to five business days after receipt of the payment failure notice from the TPS; a conservative estimate is that the customer likely has at least another five calendar days after the payment due date before the TPS could initiate a termination process, meaning this customer has now been served for at least sixty days without paying for such service. To add yet another thirty days on top of that means that in our example the customer has now received approximately ninety days of electricity supply, before the TPS can discontinue service. For these reasons, we recommend that the Board modify N.J.A.C. 14:4-7.6(b)5 to apply only to the residential customer class. (SER) (EEC)

RESPONSE: In the case of a commercial or industrial customer with a large monthly bill, the risk is not as significant as the commenters claim, because the rules provide for deposits that are correlated to the size of a customer's average monthly bill. Thus, the larger the customer, the larger the average monthly bill, and the larger the deposit required to protect the TPS from the risk described by the commenters.

34. COMMENT: N.J.A.C. 14:4-7.6(f). If a customer relocates within the TPS's service area the customer should continue on their existing contract to face Early Termination Fees if any. If they relocate outside the service area, they should be able to cancel without penalty. This is only fair since the TPS (in the case of a fixed or other special product offering) has already purchased supply for this customer. Additionally, the TPS would rather keep the customer if it can continue to offer that customer the same product. Having the contract automatically terminate may also be harmful for a customer who has locked into a specific fixed rate. If a customer goes to sign up for another fixed rate, chances are they will not be able to get that same rate again. (EEC) (NEM) (IE)

RESPONSE: There are many situations in which it would not be fair for the TPS to penalize a customer for terminating service based on a change of residence. The rule provision is intended to provide flexibility for customers who move to a new home that may be an all electric or oil home, or a two family home or apartment where the landlord is the utility's customer of record. Furthermore, the provision is unlikely to result in an incentive for a customer to change residences solely for the purpose of breaking a utility contract.

35. COMMENT: N.J.A.C. 14:4-7.7(c) provides that the TPS shall provide to the LDC the number of kWhs or therms used and the price for each, and any "other information" required by the Board for inclusion in the LDC's consolidated bill. Yet, inclusion of all this information is contrary to existing Board practice, as reflected in the Board-approved Third Party Supplier Customer Account Services Master Service Agreement and Board-approved EDI documents. Specifically, the Board permits the LDC to utilize a "bill-ready" billing model, pursuant to which the TPS only provides the LDC the supplier name, telephone number, current charges, adjustments and total charges (not the number of kWh/therms or the unit price(s)). (PSE&G)

RESPONSE: The commenter is correct that the number of kWhs or therms would not be provided by the TPS but by the LDC, as the LDC is the entity with access to

the meter. Further, the Board agrees that a unit price would be virtually impossible for a TPS to provide in relation to commercial and industrial electricity customers, because of their use of hourly pricing. Therefore, the rule has been modified upon adoption to reflect these two changes. However, for non-commercial or industrial customers, the Board has not made this change because it is important that the customer have full TPS information on the consolidated bill.

36. COMMENT: N.J.A.C. 14:4-7.7(c) indicates the information that the TPS must provide to the LDC if the LDC issues a consolidated bill. The list includes "charges for optional services provided by the TPS, a separate itemization of these charges." We do not bill for optional services. This section should be revised to provide that "the TPS shall provide to the LDC all of the information at (b)2 and 8 above for inclusion in the LDC's consolidated bills, and such other information as is provided for pursuant to the parties' Third Party Supplier Customer Account Services Master Service Agreement. (REC) (PSE&G)

RESPONSE: N.J.A.C. 14:4-7.7(b)4 requires that an itemization of charges for optional services be included on a TPS bill only "if the bill includes charges for optional services..." A TPS may contract with an LDC to include charges for optional TPS services on a consolidated bill issued by the LDC. In such a case, the TPS would need to provide the information required at N.J.A.C. 14:4-7.7(b)4. Therefore, rather than deleting the reference in N.J.A.C. 14:4-7.7(b)4, the rule has been clarified upon adoption to provide that, if the consolidated bill will include charges for optional TPS services, the TPS must provide the LDC with an itemization of those charges.

CHAPTER 8 RENEWABLE ENERGY AND ENERGY EFFICIENCY

37. COMMENT: Subchapter 3 contains multiple references to the New York Power Pool. The New York Power Pool was replaced by the New York Independent System Operator ("NYISO") in 1999. Therefore, all references to New York Power Pool and the NYPP ISO should be changed to New York Independent System Operator and the NYISO, respectively. (REC)

RESPONSE: The environmental information disclosure rules expired in 2006. In order to revive these rules quickly, the Board proposed the environmental information disclosure rules as they had existed at the time of their expiration, with the exception of the definitions section, which was consolidated with N.J.A.C. 14:4-1.2, and some of the appendices. Specifically, Appendices D, E and I were not included as they are outdated, redundant, and/or not regulatory in nature. This adoption, like the proposal, does not change this subchapter from its previously effective form. However, the environmental information disclosure rules are currently under review by Board staff, and proposed amendments are being drafted. The commenter's suggested correction will be included in those amendments when they are proposed.

38. COMMENT: N.J.A.C. 14:8-3.6 references the various categories of purchases of electricity. Given the fact that our Central and Western Divisions are affiliated with the NYISO, subsection(a)(5) should be amended to read as follows: "Electricity

purchased by the supplier from the spot market administered by the PIM ISO and NYISO." (REC)

RESPONSE: As discussed in the response to comment 37 above, the environmental information disclosure rules are currently under review by Board staff, and proposed amendments are being drafted. This correction will be included in those proposed amendments.

39. COMMENT: N.J.A.C. 14:8-4.5(g). Given the fact that our Central and Western Divisions are affiliated with the NYISO, this subsection should be amended to read as follows: "If the interconnection of a customer-generator facility is subject to interconnection requirements of FERC, PJM, or the NYISO, the provisions of this subchapter that apply to interconnection apply to that facility only to the extent that they do not conflict with the interconnection requirements of FERC, PJM, or the NYISO." (REC)

RESPONSE: The interconnection rules expired in 2006. In order to revive these rules quickly, the Board proposed the rules as they had existed at the time of their expiration, with the exception of the definitions section, which was consolidated with N.J.A.C. 14:4-1.2, and updating of cross references and codification. This adoption, like the proposal, does not change this subchapter from its previously effective form. However, the net metering and interconnection rules are currently under review by Board staff, and proposed amendments are being drafted to update the rules and incorporate changes required by recent legislation. The commenter's suggested correction will be included in those amendments when they are proposed.

Agency-Initiated changes:

- The Board's website address has been changed throughout the rules to reflect an update in the Board's website.
- A proposed provision at N.J.A.C. 14:4-7.6(h), which would have provided blanket confidentiality for sample contracts, is deleted upon adoption because the Board has determined that it would violate the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., (OPRA), and has therefore not been adopted. A detailed explanation of this issue can be found in the proposal, in the response to comment 36.
- N.J.A.C. 14:4-6.5(b) and (g) have been modified upon adoption to provide that the required forms will be available from Board staff upon request, rather than from the Board's website.
- At N.J.A.C. 14:4-7.4(d), the term "Eastern Standard Time" is added for precision.
- At N.J.A.C. 14:4-7.4(e), the term "may" is replaced with "shall", as this more clearly indicates the mandatory nature of the requirement in the provision.

Federal Standards Statement

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

The following subchapters are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements: energy anti-slamming, government energy aggregation programs, consumer protection, and environmental information disclosure. 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 adoption of these subchapters.

The affiliate relations rules are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. However, there is a Federal law that governs some of the same issues. "The Energy Policy Act of 2005," 42 U.S.C. §15801 et seq., governs affiliate transactions, service agreements, and access to the books and records of public utility holding companies. While the Board's affiliate relations rules are more specific than the Federal provisions, neither is clearly more stringent than the other. The Federal law provides broad power to prevent cross-subsidization and to issue "such rules and regulations as are necessary or appropriate for the protection of utility consumers."

The net metering and interconnection rules at N.J.A.C. 14:8-4 apply to interconnections to electric distribution facilities but not to transmission facilities. The Federal Regulatory Energy Commission (FERC) recently amended 18 C.F.R. §35.28(f) to include regulations that apply to interconnections to transmission facilities. The FERC rules primarily concern the reliability and safety of interconnections to the bulk power system, not to distribution systems. By contrast, the New Jersey rules apply only to interconnections of very small generation systems with electric distribution facilities. Therefore, there appears to be no overlap between the two sets of rules. However, should the Federal rules in future be interpreted in such a way as to govern any area also covered by the New Jersey rules, the Board has included N.J.A.C. 14:8-4.3(l) to ensure that, should there be any inconsistency between the Board's net metering and interconnection rules and FERC rules, the FERC rules will govern and there will thus be no difference in stringency between the two.

Full text of the subchapter being repealed can be found in the New Jersey Administrative Code at: N.J.A.C. 14:4-1A.

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

N.J.A.C. 14:4 ENERGY COMPETITION

SUBCHAPTER 2 ENERGY ANTI-SLAMMING

14:4-2.3 Change order required for switch

(a) (No change from proposal.)

(b) To comply with this subchapter, a change order shall meet all of the following requirements:

1. The change order shall be *[from]* transmitted from the TPS to the LDC through an Electronic Data Interchange (EDI) transaction, or *[other]* through another electronic information exchange system with equivalent speed and security. Information on EDI may be found at the Board's website at *[<http://www.bpu.state.nj.us/home/EDIdocuments.shtml>]* <http://www.nj.gov/bpu/divisions/energy/edi.html>; and
2. The change order shall demonstrate, through compliance with the verification requirements at (c) below, that the customer has authorized the switch affirmatively and voluntarily.

(c) - (e) (No change from proposal.)

(f) Pursuant to N.J.A.C. 14:4-1.3(c) and N.J.A.C. 14:4-1.5(b), a switch requested *by a customer* through the internet would still be subject to the separate "negative verification" process initiated by the utility through regular mail.

(g) All change orders shall contain the following customer information *transmitted in accordance with the Board's approved EDI protocol*. The change order shall not provide any additional customer information, as defined at N.J.A.C. 14:4-1.2, without the customer's express consent:

1. - 5. (No change from proposal.)

14:4-2.4 Signing up or switching customers electronically

(a) A TPS *[or LDC may use]* that uses electronic methods to sign up customers, renew customers' contracts for service, and/or obtain authorization to switch a customer *[in accordance]* , shall comply with this section.

(b) If a TPS *[or LDC]* uses electronic methods to sign up, renew, or switch customers, the TPS *[or LDC]* shall comply with the Federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§7001-7006, which is incorporated by reference herein, as amended and supplemented, and is available at http://www.access.gpo.gov/uscode/title15/chapter96_subchapteri_.html.

(c) A TPS *[or LDC]* that uses electronic signup, renewal, or switching shall maintain a website that includes, at a minimum, the following:

1. A statement that the customer, by using electronic signup, renewal, or switching, is consenting to the terms and conditions listed on the website in electronic form;
2. A separate statement as to the hardware and software requirements for a customer to access and retain electronic records of the transactions made on the website; and

3. A mechanism to obtain the customer's acknowledgement of the customer's affirmative obligation to provide the TPS with any change in e-mail address, and/or with any withdrawal of consent for the electronic retention of contracts or other customer information.

(d) The website through which a customer may sign up for, renew service with, or switch TPSs *[or LDCs]* shall require the customer to pass through separate web pages that provide and collect, at a minimum, all of the following:

1. Customer information including, at a minimum, name, service address, e-mail address, utility account number and, where required by a utility to complete enrollment, meter number;
2. The full terms and conditions of the contract. The customer shall be required to affirmatively indicate that the customer has read the terms and conditions;
3. A requirement that the customer assent to a statement indicating that:
 - i. The customer has the authority to sign up, renew, and/or change its TPS for the account listed;
 - ii. The customer has read, understands and agrees to the terms and conditions of the contract; and
 - iii. The customer is voluntarily authorizing a new enrollment, a renewal, or a switch in its TPS *[or LDC]*;
4. - 6. (No change from proposal.)

(e) *[The TPS or LDC shall retain an exact copy of the image of the acceptance screen, which shows that the customer accepted the TPS's terms of service when the customer signed up for or renewed service with, or changed the TPS.]* *When a customer switches to a TPS, enrolls with, or renews TPS service, the receiving TPS shall retain a record of all of the following:

- i. The date and time of the customer's acceptance of service;
- ii. The terms and conditions of service that the customer accepted, in the same form and exact wording as the terms of service were presented to the customer; and
- iii. The product that the customer accepted.*

*[(f) The TPS or LDC shall record the time and date of the customer's acceptance of the terms and conditions of service.

(g)* *(f)* The TPS *[or LDC]* shall provide the customer with a separate electronic message from the TPS *[or LDC]*, acknowledging receipt of the enrollment, renewal, or change.

[(h)] *(g)* Each TPS *[or LDC]* shall ensure that all information that is transferred electronically between a customer and the TPS *[or LDC]* is encrypted, using an encryption standard that will ensure the privacy and security of all customer information.

(i) *(h)* The TPS *[or LDC]* shall ensure that any electronic contract containing a TPS's *[or LDC's]* terms and conditions shall be identified by a version number in order to ensure that the TPS can verify the particular contract to which the customer assents.

(j) *(i)* Upon request by the customer, the TPS *[or LDC]* shall make available to the customer a copy of the terms and conditions, including the environmental disclosure label, of the contract version number which the customer has signed. The TPS *[or LDC]* shall provide to the customer a toll-free telephone number, internet means, or an electronic mail (e-mail) address for the customer to request this information throughout the duration of the contract.

(k) *(j)* A contract shall be terminated only in accordance with the termination provisions in the Board's consumer protection rules at N.J.A.C 14:4-7.10. If a contract for a customer enrolled or renewed via the internet is terminated, the TPS *[or LDC]* shall provide a cancellation number to the customer and to the LDC.

14:4-2.5 Record keeping

(a) (No change from proposal.)

(b) The TPS shall maintain *[an exact copy of the screen image that shows the customer's actual acceptance of the terms of service that were offered to the customer on the TPS website, in the same form as those terms of service were presented to the customer.]* *a record of all of the following:

1. The date and time of the customer's acceptance of service;
2. The terms and conditions of service that the customer accepted, in the same form as the terms of service were presented to the customer; and
3. The product that the customer accepted.*

(c) Each LDC shall submit a quarterly report to the Board's Division of Customer Assistance, containing all slamming complaints received, indicating the customer's name, address, telephone number, type of service, and the name of the TPS that is alleged to have requested the switch. *If an LDC receives no slamming complaints during a quarter, no report is required.*

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

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

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

(d) (No change from proposal.)

14:4-2.7 Slamming complaints and investigation

(a) A customer that believes it has been the victim of slamming may contact the TPS *[and/or LDC]* to resolve the problem, and/or may contact the Board and file a written complaint.

(b) If a customer contacts the Board with an allegation that the customer has been slammed, the portion of the customer's bill that relates to the TPS's services shall be considered in dispute *[pursuant to N.J.A.C. 14:3-7.13,]* starting upon the date of the switch that is the subject of the slamming complaint. *The TPS shall be subject to the same procedures and requirements that apply to a utility involved in a billing dispute, as set forth at N.J.A.C. 14:3-7.6.*

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

SUBCHAPTER 3. AFFILIATE RELATIONS

14:4-3.2 Definitions

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

"Affiliate" means a "related competitive business segment of an electric public utility or a related competitive business segment of a gas public utility" or a "related competitive business segment of a public utility holding company" as defined in this section and in the Act.

"Affiliated" means related to an electric or gas public utility as an affiliate thereof.

"Category" means a group of products and/or services that use the same type of electric and/or gas public utility assets or capacity. For example, "leases of land under utility transmission lines" or "use of a utility repair shop for third party equipment repair" would each constitute a separate product and/or service category.

"Competitive service" means any services, goods, or products offered by an electric public utility or a gas public utility that the Board has already determined or that the Board shall in the future determine to be competitive pursuant to section 8 or section 10 of the Act or that is not regulated by the Board.

"Cross-subsidization" means the offering of a competitive product and/or service by an electric and/or gas public utility, or the offering of a product and/or service by an affiliate, which relies in whole or in part on the utilization of utility employees, equipment or other assets, and for which full compensation (via cost allocations or direct payment), as determined by the Board, has not been provided for the use of such electric and/or gas

public utility assets, resulting in the inappropriate transfer of benefits from the utility ratepayers to the competitive product and/or service or affiliate.

"Dth" means decatherms or ten therms.

"EBB" means an electric and/or gas public utility's electronic bulletin board.

"Existing products and/or services" means those products and/or services which an electric and/or gas public utility was offering prior to January 1, 1993, that have been approved by the Board prior to February 9, 1999, or an electric and/or gas public utility is offering on the effective date of the adoption of this subchapter.

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

"Functional separation" means the formation of a separate business unit by an electric or gas public utility for purposes of offering competitive services permitted by N.J.S.A. 48:3-55(f) or N.J.S.A. 48:3-58(b) of the Act, which separate business unit shall be a related competitive business segment of an electric public utility or gas public utility as defined in this section and in the Act.

"Individual proprietary information" means a customer's name, address, telephone number, energy usage and payment history and such other information as the Board, by Order, may determine.

"Joint purchases" means purchases made by a parent or holding company or affiliate thereof for use by one or more affiliates, the fully allocated costs of which are allocated to be paid proportionally by the affiliates, based upon utilization.

"Joint purchases allowed" means purchases not associated with merchant functions, examples of which would be joint purchases of office supplies and telephone services.

"Joint purchases not allowed" means purchases associated with merchant functions, examples of which would be gas and electric purchasing for resale, purchasing of gas transportation and storage capacity, purchasing of electric transmission, systems operations, and marketing.

"Merchant functions" means the marketing and/or the provision of electric generation service and/or gas supply service to wholesale or retail customers, as opposed to the marketing and/or provision of transmission and distribution services, by an electric and/or gas public utility.

"Public posting" means a posting on an electric and/or gas public utility's EBB, website or other industry recognized and publicly accessible electronic or print medium.

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

1. Any company that, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the *[Securities and Exchange Commission]* Federal Energy Regulatory Commission (FERC)*, or its successor, by order declares such company not to be a public utility holding company under *[the Public Utility Holding Company Act of 1935, 15 U.S.C. §§79 et seq.]* Title XII, Subtitle F of the Energy Policy Act of 2005 (known as the Public Utility Holding Company Act of 2005), Pub. L. No. 109-58, §§1261-77, 119 Stat. 594, 972-78 (2005),* or its successor; or
2. Any person that the *[Securities and Exchange Commission]* FERC*, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of *[1935]* 2005* or its successor.

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services.

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility.

"Services that may not be shared" means those services which involve merchant functions, including, by way of example: hedging and financial derivatives and arbitrage services, gas and/or electric purchasing for resale, purchasing of gas transportation and storage capacity, purchasing of electric transmission, system operations, and marketing.

"Shared services" means administrative and support services that do not involve merchant functions, including by way of example: payroll, taxes, shareholder services, insurance, financial reporting, financial planning and analysis, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, regulatory affairs, lobbying, legal, and pension management.

"Short term" means a transaction of 31 days or less.

"Structural separation" means the formation of a related competitive business segment of a public utility holding company.

14:4-3.5 Separation

(a) - (n) (No change from proposal.)

(o) An electric and/or gas public utility shall not participate in joint advertising or joint marketing activities with its PUHC or related competitive business segments of its public utility holding company which activities include, but are not limited to, joint sales calls, through joint call centers or otherwise, or joint proposals (including responses to requests for proposals) to existing or potential customers.

1. - 2. (No change from proposal.)

3. An electric and/or gas public utility shall not participate jointly with its PUHC or a related competitive business segment of the PUHC in trade shows, conferences, or other information or marketing events held in New Jersey*. For the purposes of this paragraph, "joint participation" includes any sharing of costs or facilities associated with the event, such as using the same signage, handouts, transport, advertising, booth or space, or presentation time*; and

4. (No change from proposal.)

(p) - (u) (No change from proposal.)

APPENDIX A

SECTION 1 Timing and Review

1. Time for Filing of Petition

a. The EDC/GDC shall file a petition at least sixty (60) days prior to the offering of any new maintenance, repair, replacement parts, service contract, power conditioning or equipment sales and/or lease or any other tariffed or non-tariffed EDC/GDC competitive services.

b. The EDC/GDC shall provide Staff a draft petition at least two weeks prior to filing of said petition with the Board, so that EDC/GDC representative(s) may discuss the salient aspects of said filing with Board staff at a mutually agreed to time.

2. Conditions for Review

a. The following conditions must be satisfied prior to Staff's review of said petition:

i. All filing requests are met and acknowledged by letter from Board Staff;

ii. Copies of the filing are served on *[the Division of the Ratepayer Advocate]* *Rate Counsel, as defined at N.J.A.C. 14:3-1.1,* and other interested parties; and

iii. All confidentiality issues are resolved.

SECTION 2 Petition Filing and Confidentiality

(No change from proposal.)

SUBCHAPTER 4. (Reserved)

SUBCHAPTER 6. GOVERNMENT ENERGY AGGREGATION PROGRAMS

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.

(b) Each participating municipality in Option 1 government-private energy aggregation program shall execute an LDC aggregation agreement with each LDC that serves customers in the municipality, using the applicable form agreement *[found on the Board's website at www.bpu.state.nj.us]*, obtainable from Board staff upon request*. A detailed description of the LDC aggregation agreement is set forth at N.J.A.C. 14:4-6.7.

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

(g) The Board shall *[post on its website]* make available upon request* a form for use in notifying customers under (c) above *[at www.bpu.state.nj.us]*. The form notice shall be used for all government-private energy aggregation programs, except if a program uses special pricing for renewable energy in accordance with N.J.A.C. 14:4-6.9(g), or includes appliance repair service. For these programs, the lead agency shall submit a draft notice to the Board secretary for prior approval. The draft notice shall include, at a minimum, all of the information required at (f) above.

(h) - (j) (No change on adoption.)

(k) 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 *[the Ratepayer Advocate]* 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 *[the Ratepayer Advocate]* Rate Counsel* to comment on the documents.

(l) 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 *[the Ratepayer Advocate]* 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 [the Ratepayer Advocate] Rate Counsel to comment on the draft contract.

(m) - (p) (No change on adoption.)

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

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

(c) Each participating municipality in Option 2 government-private energy aggregation program shall execute an LDC aggregation agreement with each LDC that serves customers in the municipality, using the applicable form agreement found on the Board's website at [www.bpu.state.nj.us] http://nj.gov/bpu/. A detailed description of the LDC aggregation agreement is set forth at N.J.A.C. 14:4-6.7.

(d) - (h) (No change from proposal.)

(i) The lead agency shall provide a copy of the draft bidding documents to the Board and to [the Ratepayer Advocate] Rate Counsel, as defined at N.J.A.C. 14:3-1.1, for their comment at least 30 calendar days prior to advertising for bids. The Board and the [Ratepayer Advocate] 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 [the Ratepayer Advocate] Rate Counsel.

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

(l) The lead agency shall provide a copy of the draft contract to the Board and [the Ratepayer Advocate] Rate Counsel for their comment. The Board and [the Ratepayer Advocate] Rate Counsel shall have 15 calendar days after receipt of the draft contract to provide comments to the lead agency.

(m) The lead agency may accept or reject comments submitted by the Board and/or [the Ratepayer Advocate] Rate Counsel. However, the lead agency shall not execute the contract until the earlier of the following dates:

1. The date upon which the Board and [the Ratepayer Advocate] Rate Counsel have both submitted comments on the contract or have both indicated that they will not comment; or
2. Twenty calendar days after the Board and [the Ratepayer Advocate] Rate Counsel received the draft contract.

(n) After the requirements for Board and [the Ratepayer Advocate] Rate Counsel comments at (l) and (m) above are met, the lead agency may execute a contract with the selected TPS(s), which meets the requirements of N.J.A.C. 14:4-6.9 and 6.10.

(o) - (r) (No change from proposal.)

(s) The Board shall post a form notice to customers on its website at [*\[www.bpu.state.nj.us\]*](http://www.bpu.state.nj.us) [*http://nj.gov/bpu/*](http://nj.gov/bpu/). This form notice shall be used for all government-private energy aggregation programs, except if a program uses special pricing for renewable energy in accordance with N.J.A.C. 14:4-6.9(g), or includes appliance repair service. For these programs, the lead agency shall submit a draft notice to the Board secretary for approval. The draft notice shall include, at a minimum, all of the information required at (r) above.

(t) - (u) (No change from proposal.)

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

(a) After the adoption of an ordinance or resolution authorizing establishment of a government-private energy aggregation program, each participating municipality shall execute a LDC aggregation agreement with each LDC that serves customers in the municipality, using the applicable form agreement found on the Board's website at [*\[www.bpu.state.nj.us\]*](http://www.bpu.state.nj.us) [*http://nj.gov/bpu/*](http://nj.gov/bpu/). This agreement governs the working relationship between the participating municipality and the LDC during the establishment and operation of the government-private energy aggregation program.

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

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

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

(d) The benchmark price for each rate class shall be calculated using a worksheet provided by the Board on its website at [*\[www.bpu.state.nj.us\]*](http://www.bpu.state.nj.us) [*http://nj.gov/bpu/*](http://nj.gov/bpu/), and shall not exceed the applicable amount specified at (e) or (f) below.

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

SUBCHAPTER 7. RETAIL CHOICE CONSUMER PROTECTION

14:4-7.3 Advertising standards

(a) Any advertisements by a TPS which offers to customers optional services*, as defined at N.J.A.C. 14:4-1.2*, whether such advertisement is in electronic, print, radio or television media, or via telemarketing or an internet website, which specifically targets residential customers for electric generation service or gas supply service, shall clearly and conspicuously state whether such optional services are provided at an additional charge which is not reflected in the advertised cost per kWh or per therm, or the advertised percentage savings.

(b) (No change from proposal.)

(c) A TPS shall include in its advertisements of a general nature, via electronic, radio and/or television medium, the following:

1. A toll-free or local telephone number which a customer may call or website which a customer may access to request detailed information concerning the average price per kWh for and environmental characteristics of electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services *[other than electric generation or gas supply service]*; and
2. The LDC(s) in whose service territory(ies) the TPS is offering services. *If the TPS offers its services throughout New Jersey, the advertisement may state this fact, rather than listing all New Jersey LDCs.*

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. *[The]* *A toll-free or local telephone number which a customer may call or website which a customer may access to request detailed information concerning the* average price per kWh for electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services *[other than electric generation or gas supply service]*;
2. - 5. (No change from proposal.)
6. The LDC(s) in whose service territory(ies) the TPS is offering the advertised services*. If the TPS offers its services throughout New Jersey, the materials may state this fact, rather than listing all New Jersey LDCs*;
7. - 8. (No change from proposal.)

(b) The marketing materials provided by the TPS to residential customers shall also include either of the following:

1. The estimated percentage savings on the total bill which a customer will realize under the advertised price relative to the customer taking basic generation service or basic gas supply service from the LDC*[. The estimated percentage savings on the total electric bill shall not include and shall only represent the savings above and beyond the rate reductions which all electric customers receive under the Act whether they switch suppliers or not]*; or
2. (No change from proposal.)

(c) If the Board determines*, either on its own motion or in response to a petition,* that information other than that required under (a)4 and/or (b) above would provide customers with a more accurate understanding of the potential savings from obtaining

energy through the TPS instead of through BGS or BGSS, the Board may, by order, require that TPS marketing materials include that information in addition to, or instead of, the information listed in (a)4 and/or (b) above.

(d) The TPS shall comply with all FTC telemarketing rules, including the restriction on telemarketing between the hours of 9 p.m. and 8 a.m., Eastern Standard Time.*

(e) A TPS *[may]* *shall* not market to retail customers prior to its receipt from the Board of a supplier license.

(f) - (m) (No change from proposal.)

14:4-7.5 Credit

(a) (No change from proposal.)

(b) A TPS shall maintain a written explanation of its income, security deposit and credit requirements, which shall be made available to the Board and the Division of Consumer Affairs within forty-eight hours after a request *by either agency*.

(c) - (e) (No change from proposal.)

14:4-7.6 Contracts

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

(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 *[the Division of the Ratepayer Advocate on a confidential basis]* *Rate Counsel, as defined at N.J.A.C. 14:3-1.1,*; the initial filing of the sample copy of TPS contract(s) shall include a consumer complaint resolution process; 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 *[the Division of Ratepayer Advocate on a confidential basis]* *Rate Counsel, within three (3) 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) In no event shall a TPS cease to deliver electric power supply, or natural gas supply, subject to the terms and conditions of the contract and the LDC tariff, to the LDC on behalf of a residential customer, upon less than the minimum 30 days' notice *[period]* *to the customer*.

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

14:4-7.7 Customer bills

(a) (No change from proposal.)

(b) All TPS bills shall include, at a minimum, all of the following:

1. (No change from proposal.)
2. The number of kwhs or therms used*[and the]* *;
3. The unit* price for each kwh or therm;
[3.] *4.* If the number of kwhs or therms is based on estimates or averages, or on information from a remote reading device, the bill shall clearly indicate the basis of the number of kwhs or therms;
- *[4.]* *5.* If the bill includes charges for optional services provided by the TPS, a separate itemization of these charges;
- *[5.]* *6.* The name, address and local and/or toll-free telephone number of each TPS for which billing is provided, and of each billing aggregator acting on behalf of a TPS;
- *[6.]* *7.* The toll-free customer service and emergency telephone numbers of the LDC;
- *[7.]* *8.* The address of the Board and the telephone number of the Board's Division of Customer Assistance: (973) 648-2350 and 1-800-624-0241; and
- *[8.]* *9.* Any other information the Board requires by order after {effective date of these rules}.

(c) If a TPS does not issue separate bills for its services, the TPS shall provide to the LDC all of the following* information [at (b)2, 4 and 8 above]* for inclusion in the LDC's consolidated bills*:

1. For all customers except for commercial and industrial electricity customers, the information required at (b)3 above;
2. For commercial and industrial electricity customers, the customer's current and total charges;
3. If the LDC includes charges for TPS-provided optional services on the LDC's consolidated bills, the itemization described at (b)4 above; and
4. The information required at (b)9 above*.

(d) LDC bills shall comply with the Board's rules for all public utility bills at N.J.A.C. 14:3-7.5 and 7.6.

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

(a) (No change from proposal.)

(b) Residential customers may be terminated for non-payment at the time of the next meter reading but with at least the minimum 30 days' written notice *to the residential customer*, which shall include a toll-free or local telephone number of the TPS and the Board, the effective date, the reason for the contractual termination, timetable for the residential *customer* to choose another TPS before defaulting to basic generation service or gas service, and 15 to 30 days' notice to the LDC.

Note: This is a courtesy copy of the adoption. The official version will be published in the New Jersey Register on May 19, 2008. Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

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

CHAPTER 8 RENEWABLE ENERGY AND ENERGY EFFICIENCY

Full text of the adopted rules may be found in the New Jersey Administrative Code at N.J.A.C. 14:8-3 and 4.