

Matthew M. Weissman
General State Regulatory Counsel

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October 22, 2019

VIA ELECTRONIC DELIVERY & OVERNIGHT MAIL

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: Licensing/Registration Rules and Annual Information Update Form
Comments, Docket No. AX19091003
PSEG Energy Solutions LLC, License Number ESL-0190**

Dear Ms. Camacho-Welch:

Public Service Enterprise Group, Inc. (“PSEG”), on behalf of its subsidiaries Public Service Electric and Gas Company (“PSE&G”) and PSEG Energy Solutions LLC (“Energy Solutions”), appreciates the opportunity to provide comments on the draft licensing and registration rules and Interim Annual Information Update Form (“Update Form”) discussed at the stakeholder meeting held on October 4, 2019.

We commend the Board for conducting this stakeholder engagement process. PSEG has brief comments on the proposed license renewal process, as well as on the draft proposal handed out at the October 4 meeting regarding changes to N.J.A.C. 14:4-5.

License Renewal

On behalf of Energy Solutions, we note that the company’s current license was issued on June 21, 2019, and includes an express “Expiration Date” of June 20, 2020. In order to avoid customer confusion, we request that following satisfactory submission of a supplier’s first Update Form, the supplier’s license be reissued without an expiration date.

We also recommend that in addition to the supplier’s license, a licensee shall maintain the surety bond required under N.J.A.C. 14:4-5.4 throughout the duration of the license. We request that the Board offer and accept a surety bond template with an evergreen clause (without an expiration date), to be consistent with the supplier’s license without an expiration date.

Regarding the Update Form itself, item B. under the heading “Financial and Business Information” seeks the licensee’s “most recent 12-month and calendar year sales volume in New Jersey” Energy Solutions requests that the Board clarify whether the term “sales” refers to dollar sales, or to quantity of energy in kWh or therms. Item F. under that same heading requires “a statement, signed by an authorized officer on company letterhead, listing affiliations to any other third party supplier, local distribution company, or any other entity. If there are no affiliations please state as such in the letter.” Energy Solutions suggests that the form be modified to provide that if there have been no changes in the suppliers’ affiliations in the prior year, the licensee should so state, and in that case would not be required to resubmit the authorized list.

Proposed Rule

At the October 4, 2019 stakeholder meeting Board staff distributed a draft of a proposed rule containing a new section N.J.A.C. 14:4-5.1(c), which provides as follows:

(c) An industrial large volume end user who is acting on their own behalf as an electric power supplier and gas supplier arranging purchases of supplies, owning the supplies (prior to it entering the distribution system) and transporting supplies to the distribution system to serve only their own end use needs may request a waiver from the Board to file for a license. . . . (emphasis added)

While supportive of this initiative, PSE&G believes the language as proposed does not provide enough specificity for the local electric and gas distribution companies (“LDCs”) to effectively manage this program. PSE&G requests clarification in the following areas:

- Is this provision limited to industrial customers, or does it also include commercial customer? If limited to industrial customers, what criteria should be used to define the primary activity of the customer (e.g., NAICS code)?
- What criterion defines a large volume end-user? Is the Board considering threshold on an annual basis (MWh, DTH/yr), or on a peak basis (peak load contribution, maximum daily gas usage)?
- Does this exception to the license requirement apply to a single customer location, or can a customer aggregate multiple locations for self-supply? If the Board is considering allowing a large volume user to aggregate usage from multiple locations, PSE&G requests that the end-use customer be required to certify that all of the locations are directly owned by the same corporate entity and operate under the same Federal Tax ID, and Dun and Bradstreet Data Universal Numbering System (DUNS) number.

Since the LDCs have an obligation under N.J.A.C. 14:4-5.10 to not accept Third Party Suppliers (“TPS”) enrollments from TPS who are not licensed, PSE&G also requests the Board identify an official source of information listing all TPS that are currently authorized to provide electric and gas supply service in New Jersey but are not licensed, under the waiver provisions of N.J.A.C. 14:4-5.1(c). PSE&G believes the existing Power Switch website (<https://nj.gov/njpowerswitch/>) would be an appropriate location for that official source of information.

* * *

Once again, PSEG commends the Board for conducting this stakeholder proceeding and appreciates the opportunity to submit comments. We look forward to continuing to work with the Board and all stakeholders on these important issues. We thank the Board for its consideration of our submission.

Respectfully submitted,



Matthew M. Weissman

Hello NJBPU,

We are replying in response to the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules AT N.J.A.C 14:4 – 5 et seq. Docket No. AX19091003.

There is one comment we have that pertains to providing financial information as part of the renewal process (14:4-5.3(b) #7).

*Screenshot of said section provided on the next page.

14:4-5.3 Application contents – initial electric power supplier[,] or gas supplier [or clean power marketer] license

(a) An application for an electric power supplier[,] or gas supplier [or clean power marketer] license shall include all of the information required by the instructions accompanying the application form for the appropriate license. The application form and instructions **along with BPU contact information** shall be available from the BPU through its website at www.nj.gov/bpu/. [or by telephone at (973) 648 4450]

DISCLAIMER – THIS IS A DRAFT OF A PROPOSED RULE THAT HAS NOT BEEN PRESENTED TO THE BOARD FOR CONSIDERATION. PLEASE NOTE THAT MODIFICATIONS TO THIS RULE PROPOSAL, MINOR AND/OR MAJOR, MAY BE IMPLEMENTED PRIOR TO BOARD CONSIDERATION. FURTHERMORE, RELEASE OF THIS DRAFT DOES NOT INITIATE OR OTHERWISE INFLUENCE RULEMAKING TIME PERIODS PRESCRIBED BY LAW OR CODE.

(b) A complete application for an electric power supplier[,] or gas supplier [or clean power marketer] license will require an application form, completed as directed in the instructions that accompany the application form. The application form shall require the following types of information:

7. Evidence of financial integrity, including records of and information on past financial dealings and conditions, and references from financial institutions;

In regards to the screenshot on the previous page, given that our company is a publicly traded company, we recommend that publicly available financial information be provided a link and title of the report in the license renewal application, rather than providing multiple physical copies.

The reason we say so is that so much paper, especially in the case of an SEC 10-K report, is being wasted on information that simply can be accessed publicly, via the ticker symbol of our company (PBF), the name of the report provided in the submission (SEC 10-K), as well as a link to the said report.

We also request for license renewals to be able to be electronically filed to the NJBPU, rather than physically filed.

This will cut down on even more paper waste, decrease the probability of documents being misplaced, and expedite the renewal process by eliminating the need to deliver physical renewal applications.

Thank you for giving us the opportunity to comment.

Regards,

Mike Farkas

PBF Energy

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October 25, 2019

Secretary Aida Camacho
State of New Jersey
Board of Public Utilities
44 S. Clinton Ave.
9th Floor
P.O. Box 350
Trenton, NJ 08625-0350
energycomments@bpu.nj.gov

Re: DOCKET NO. AX19091003 - LICENSING/REGISTRATION RULES AND ANNUAL
INFORMATION UPDATE FORM COMMENTS

Dear Secretary Camacho:

Enclosed please find New Jersey Retail Choice Coalition's Comments in the above-referenced proceeding.

If you have any questions or comments regarding the enclosed, please do not hesitate to contact me.

Respectfully,

/s/ Natara G. Feller
Natara G. Feller, Esq.
natarafeller@feller.law
(212) 590-0145
Counsel to New Jersey Retail
Choice Coalition

Enclosures

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

DOCKET NO. AX19091003 - LICENSING/REGISTRATION RULES AND ANNUAL
INFORMATION UPDATE FORM COMMENTS

Comments of the New Jersey Retail Choice Coalition

The New Jersey Retail Choice Coalition (“NJRCC”)¹ submits these comments in response to the Board of Public Utilities’ (“BPU”) September 20 notice for comments on the draft licensing and registration rules and interim annual information update form. The NJRCC appreciates the opportunity to provide input before BPU Staff recommends rule modifications to the Board and finalizes the annual information update form.

The NJRCC supports the BPU’s initiative to streamline the process for third party suppliers (“TPSs”) agents and consultants to renew their licenses with an annual update form. In addition to the modifications proposed in the Notice, the NJRCC suggests the BPU consider inclusion of a mechanism whereby broker fees and commissions would be clearly disclosed and billed to customers.

First, such a change would promote price transparency and further enhance price protection to consumers. The disclosure of the fees paid to brokers, agents and consultants should be disclosed and billed directly to customers. Such disclosure may easily be accomplished by the inclusion of a statement in the customer agreement that states: the third party to who the fees are paid, the amount and duration of the fee, and how the fee is calculated (whether based on number of customers, volume of commodity or monetary value of the contract). Another approach would be

¹ The New Jersey Retail Choice Coalition is a growing coalition of small to mid-size Third Party Suppliers (“TPS”) working to advance a transparent and fair regulatory environment in New Jersey.

to require brokers, agents and consultants to disclose their fees on their websites, or at the time they are soliciting customers for business. Second, the addition of such a requirement will increase the accountability of brokers and make it clear to consumers what costs are related to the supply of commodity service, and what costs are passed on as a result of commissions due to agents, consultants or brokers. This may be accomplished by identifying the broker payment as a separate line item on the customer's bill for commodity service.

Furthermore, the NJRCC suggests that such payments or commissions paid to brokers, consultants or agents be excluded from Sales and Use Taxes. One way to accomplish this would be to have the customers compensate the broker, agent or consultant directly for their services and take the TPS out of the equation altogether. To the extent such commissions are commingled with other components underlying the commodity rate, it is not possible to exclude such costs from the Sales and Use Tax; however, if such costs are disclosed, such payments to third parties could be excluded from the Sales and Use Tax, thus ultimately saving customers money.

In closing, the NJRCC thanks Staff for the opportunity to provide input as Staff finalizes its proposed rule for BPU consideration

Respectfully submitted,



Natarara G. Feller, Esq.
Feller Law Group, PLLC
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Counsel to the New Jersey Retail Choice Coalition

Date: October 25, 2019

October 18, 2019

Aida Camacho-Welch
Secretary
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules (Dkt. No. AX19091003)

Dear Ms. Camacho-Welch,

We are writing in response to a notice for public comments "In the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules," Docket No. AX19091003.

Our company has strong concerns regarding the proposed change to N.J.A.C. 14:4-5.2 (c) (2). This requirement that suppliers must post "projected price comparison information," as well as "current and accurate pricing information" to be "updated by the supplier regularly" is extremely burdensome to suppliers. Placing this burden on suppliers will decrease competition in the energy market, meaning lower quality services will be provided to New Jersey customers.

Additionally, the easy level of access for customers would potentially reveal pricing strategies to competitors. It is industry practice that pricing strategies are held to be proprietary information. We strongly urge you to protect the integrity of the energy marketplace, by allowing suppliers the right to maintain trade secrets regarding pricing strategies.

We look forward to the clarification of this matter.

Thank you for your consideration of this comment.

Sincerely,

/s/AlexanderRozenblat

Alexander Rozenblat
Chief Legal Officer
Eligo Energy NJ, LLC



State of New Jersey
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PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

STEFANIE A. BRAND
Director

October 25, 2019

By Hand-Delivery and Electronic Mail

Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of the Board's Review of the Energy Competition
Licensing and Registration Rules at N.J.A.C. 14:4-5 et seq.
BPU Docket No.: AX19091003**

Dear Secretary Camacho-Welch:

Please accept for filing an original and ten (10) copies of comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. Copies of Rate Counsel's comments are being provided to all parties on the service list by electronic mail and hard copies will be provided upon request to our office.

We are enclosing one additional copy of the comments. **Please stamp and date the extra copy as "filed" and return to our courier.** Thank you for our consideration and attention to this matter.

Respectfully submitted,

Stefanie A. Brand, Esq.
Director, Division of Rate Counsel

By:


Maura Caroselli, Esq.
Assistant Deputy Rate Counsel

MC
Enclosure

cc: Tps.Pricelink@bpu.nj.gov
Abe Silverman, BPU
Stacey Peterson, BPU
Alice Bator, BPU
Pamela Owen, ASC

In the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules at N.J.A.C. 14:4-5 et seq.

BPU Docket No.: AX19091003

Comments of the Division of Rate Counsel

October 25, 2019

Introduction

The Board held a stakeholder meeting on October 4, 2019 to introduce proposed draft changes to the above-mentioned rules. Rate Counsel offers these initial comments on the draft changes and reserves the right to provide additional comments when the rules are officially published for comment.

Large Volume End Users

The Board proposes to waive the licensing process for large volume end users if certain requirements are met. N.J.A.C. 14:4-5.1. Rate Counsel recommends that even if the Board permits large volume end users to bypass the licensing requirement, that it require that they officially register with the Board. If the Board maintains a registration list of these entities, the Board retains some degree of oversight and discourages abuse.

Making Information Publicly Available and More Readily Accessible to Ratepayers

At N.J.A.C. 14:4-5.1(1)4, 5, and 6, the Board proposes that certain information in the third party supplier's application for service would be deemed confidential and therefore not subject to the Board's Open Public Records Act (OPRA). Specifically, the third party supplier's customer count, market share and financial information would be confidential. Rate Counsel objects to the confidentiality designation for a third party supplier's customer count and market share since this information may be useful to ratepayers who are shopping for a third party

supplier. The customer count is particularly useful since it demonstrates how many customers have already signed up with the company. Rate Counsel also notes that the number of customers served by public utility companies is not confidential. Any market reasons presented by third party suppliers to support a confidential designation for these two pieces of information do not outweigh a customer's right to be able to obtain basic information about the supplier which may serve them, including the number of customers it presently serves.

In addition, Rate Counsel recommends that N.J.A.C. 14:4-5.2 include that the Board will publish information on the NJ Power Switch website regarding the number and the nature of customer complaints received each year concerning each authorized third party supplier.

Rate Counsel supports the proposed change at N.J.A.C. 14:4-5.2(c)(2) which would allow customers to access pricing information more easily. In addition to making the price to compare easier to uncover, Rate Counsel recommends adding language to the rule that requires third party suppliers to clearly state pricing information on their websites. The Board should require the language "Price to Compare" in bold letters next to the appropriate price with a clear explanation of each type of pricing plan the supplier offers for residential and commercial customers. Third party suppliers should be required to provide pricing for residential and commercial separately on its website following the same format and information required in the "TPS Contract Summary Standardized Format" (except for the contract start date) pursuant to N.J.A.C. 14:4-7.6A¹. This would require the supplier to post on its website one "TPS Contract Summary Standardized Format" page per each residential and commercial price plan. Presenting the pricing information in the identical boxed format on each supplier's website would benefit ratepayers in understanding what price and terms they are comparing to their public utility

¹ The TPS Contract Summary Standardized Format is found at: https://www.state.nj.us/bpu/pdf/energy/TPS_ContractSummaryStandardizedFormat.pdf

company and to other third party suppliers.

Provide Clear Definition of Green Power Services

Moreover, at N.J.A.C. 14:4-5.3(b)5, the Board proposes to add the language “including green power services” when a third-party supplier provides a list of services that it intends to offer in New Jersey. Rate Counsel recommends that the Board provide a definition of the term “green power services” that includes a list of the specific types of “services” which qualify under this term. Additionally, third party suppliers should be required to state exactly what makes their product “green power” in their advertising materials, website, and in their pricing information. Without a definition, third party suppliers could use the term “green power” liberally in their advertising and some residential customers may pay more for gas or electricity service that they believe is benefiting the environment when in reality that may not be the case. Many customers could automatically associate “green power” with solar or wind power and make that assumption without further information. Customers must also be informed about exactly what percentage of the commodity actually qualifies as “green power.” Without specifying this in the definition and requiring third party suppliers to provide that information clearly on its website and in its literature, the Board leaves open the possibility for customers paying more for a commodity where only a small fraction of it actually qualifies as “green power.”

Corresponding Changes in Other Sections of the Rule

In order to streamline changes in all pertinent parts of the rule, Rate Counsel notes that under the Board’s current draft rule proposal, paragraphs at N.J.A.C. 14:4-.51(f) and (g) will become N.J.A.C. 14:4-5.1(g) and (h) respectively and the corresponding change should be made where those subsections are referenced elsewhere in the rule. For example N.J.A.C. 14:4-5.10(c) in the current proposal is incorrectly noted as a subsection without a proposed change,

despite that it cross references the language at N.J.A.C. 14:4-.51(f) and (g) which will contain different language if the proposed changes are made.



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October 25, 2019

Secretary Aida Camacho-Welch
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor Suite 314
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Trenton, NJ 08625-0350

**RE: IN THE MATTER OF THE BOARD'S REVIEW OF THE ENERGY COMPETITION LICENSING
AND REGISTRATION RULES AT N.J.A.C. 14:4 – 5 ET SEQ. – DOCKET NO. AX19091003**

Dear Secretary Camacho-Welch:

Attached please find the comments of East Coast Gas & Power of New Jersey, LLC in the above referenced proceeding. If you have any questions or comments regarding the enclosed, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michael Kowal".

Michael Kowal, Esq.



Official Energy Provider: New York Mets / New Jersey Devils / Brooklyn Nets
Proud Partner: Rutgers Athletics / Hunter Mountain

State of New Jersey

Board of Public Utilities

Comments of East Coast Gas & Power of New Jersey, LLC in the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules at N.J.A.C. 14:4-5 et seq. – Docket AX19091003

I. INTRODUCTION

East Coast Gas & Power of New Jersey, LLC ("East Coast") respectfully submits these comments in the above-referenced proceeding addressing Energy Competition Licensing and Registration Rules. The review of Energy Competition Licensing and Registration Rules by the Board of Public Utilities ("BPU" or "Board") are significant to East Coast as East Coast is a licensed third party supplier ("TPS") in New Jersey and provides potential customers in New Jersey to shop for natural gas supply and includes a variety of commodity options, such as fixed price contracts, and other energy related options and anticipates being able to offer customers with additional alternatives in the future.

East appreciates the Board's revised renewal process, providing for a smoother continuation process and affords greater assurance of licensing regulation. Notwithstanding the refined renewal process, East has comments regarding a few aspects of the proposed rule changes, as described below. East believes that the inclusion of these matters will further deliver to New Jersey consumers the benefits promised by market competition.

II. COMMENTS

- A. 14:4-5.4(j) – Thirty days prior to the expiration of the surety bond, a licensee must file a renewed surety bond for the next annual period.

The practical effect is that the Board could be holding 2 bonds from each TSP for at least 30 days. Not only can it be difficult to arrange for a 13/26 month surety bond; the TSP is paying a fee or interest for the month prior to the replacement bond being effective (prior to the expiration of the current bond) in addition to the existing bond. This additional cost must be borne by the TSP and then recouped through the marketplace. Prices to NJ Customers would be lower if this requirement was not adopted in its current form.

This adverse effect could be ameliorated by additional language reflecting that the replacement bond is effective after the expiration of the existing bond and without any further act by the TSP or Board:

"Thirty days prior to the expiration of the surety bond, a licensee must file a renewed surety bond, to be effective for the next annual period immediately after the expiration of the existing surety bond, with no further action by the TSP or Board."

- B. 14:4-5.5. 4. Requires notice sent 30 calendar days before the reorganization, restructuring, merger, or acquisition pursuant to N.J.A.C. 14:4-7.10A

East fully supports the written notice requirement, upon any account transfer, but when transactions are completed quickly or with other transactional tension, it can be a tremendous strain to fully comply with a closing delay.

There are a number of potential difficulties in being able to provide this information 30 days prior to an account transfer. Smaller organizations may not easily comply with the additional timeframe requirement. Larger transfers of 1,000 customer accounts or more should more readily be able to provide the advance written notice requirement. East Coast respectfully points out that based on different account meter dates, a 30 day notice period could extend to almost triple that timeframe if the notice date, closing date, and the account meter read dates are not synchronized.

If the timeframes could be run concurrently then there would be more certainty that the transaction would close and without any potential interruption to customers.

III. CONCLUSION.

East Coast is pleased to be able to offer these comments and to continue participation in these proceedings. East Coast further looks forward to being able to provide customers in New Jersey an expanding portfolio of products with the certainty that these changes will provide. These revisions will further enable the customers to more fully realize the promise of energy competition in New Jersey.



October 22, 2019

VIA ELECTRONIC MAIL

Tps.Pricelink@bpu.nj.gov

Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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Trenton, New Jersey 08625-0350

RE: In the Matter of the Board's Review of the Energy Competition Licensing and Registration Rules at N.J.A.C. 14:4 – 5 et seq. BPU Docket No. AX19091003

Dear Secretary Camacho-Welch:

Pursuant to your Notice issued October 17, 2019 in the above-captioned proceeding, Luthin Associates, Inc., (Luthin) a registered NJ Energy Agent and Energy Consultant (Reg. No. EA-0154) hereby submits its comments regarding the proposed changes to the licensing and registration rules and interim annual information update form pursuant to N.J.S.A. 10:4-6 et. seq.

Size of Energy Consultant Surety Bond

Luthin has identified an ambiguity that could result in an unintended 25-fold increase in the size of the surety bond required of energy consultants.

Specifically, N.J.A.C. 14:4-5.5(f), as proposed, states that “A licensee **or energy consultant** shall maintain the surety bond required under N.J.A.C. 14:4-5.4 throughout the duration of the license or registration.” In relevant part, the proposed N.J.A.C. Section 14:4-5.4 states that:

(f) Upon receipt of the notice issued under (e) above, the applicant shall submit a surety bond for the following amount:

- 1. \$ 250,000 for an electric power supplier license or a gas supplier license; or**

However, the registration procedures for energy consultants are specified in Section 14:4-5.11. Specifically, the surety bond requirement for an energy consultant is laid out in Section 14:4-5.11(b)2, which states:

(b) A registration shall be submitted on forms provided by the Board, available on the Board's website at www.nj.gov/bpu/. The registration form shall require all of the following:

1. Proof that the person is a registered energy agent, or, alternatively, all of the information required under this subchapter to register as an energy agent;
2. A \$ 10,000 surety bond; and
3. Documentation that the person maintains an office in New Jersey in accordance with N.J.A.C. 14:4-5.2(b).

The draft regulations propose no changes to the magnitude of the surety bond for energy consultants specified in N.J.A.C. 14:4-5.11(b)2.

The proposed rules should be revised to clarify the appropriate surety bond requirement for energy consultants. Luthin Associates, Inc. recommends that the proposed Section 14:4-5.5(f) be amended as follows (in redline format):

“A licensee **or energy consultant** shall maintain the surety bond required under N.J.A.C. 14:4-5.4 throughout the duration of the license or registration, provided, however, that the size of the surety bond required for an energy consultant shall be as specified in N.J.A.C. 14:4-5.11(b)2.”

Conclusion

Luthin Associates appreciates the opportunity to offer its comments on the proposed changes to the licensing and registration rules and respectfully requests that the Board adopt the modifications proposed above.

Respectfully Submitted,

/S/

Aaron Breidenbaugh
Director of Regulatory Affairs
Luthin Associates, Inc.



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Luthin.com



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Allenhurst, NJ 07711

DRAFT LICENSING AND REGISTRATION RULE AMENDMENTS

N.J.A.C. 14:4-5 ET SEQ.

COMMENTS OF THE NEW JERSEY LARGE ENERGY USERS COALITION

The New Jersey Large Energy Users Coalition (“NJLEUC”) appreciates the opportunity to offer comments regarding the draft amendments to the Board’s Licensing and Registration Rules (“LR Rules”) and to participate in this process. For the reasons discussed below, NJLEUC supports the Board’s efforts to amend the LR Rules.

I. Overview

NJLEUC members do not function as retail electric power suppliers, aggregators or energy agents, and do not engage in the retail sale of electric generation service to third party customers. Several members are licensed by the Federal Energy Regulatory Commission as load serving entities (“LSEs”) and are members of PJM, but solely to enable them to procure power in the wholesale markets solely to supply their own facilities. However, under the LR Rules, all LSEs, including NJLEUC members, are currently required to be licensed generically as “Electric Power Suppliers”. N.J.A.C. 14:4-1.2.

As will be discussed below, the broad definition of “Electric Power Suppliers” in the LR Rules lumps self-supply large volume end-use customers that are licensed as LSEs together with marketers, aggregators, brokers and energy agents that provide retail electric generation service to the general public, and the LR Rules afford them equivalent treatment. As a result, many provisions of the LR Rules applicable to Electric Power Suppliers generally have little, if any, relevance to large volume commercial and industrial end-use customers that are licensed as LSEs solely to enable them to procure their own supply requirements for their own consumption, rather than to engage in the retail sale of electric generation service to other customers (“Self-Supply LSE Customers”).

The LR Rules define “Electric Power Supplier” as follows:

“Electric power supplier” means a person that is licensed by the Board to offer, and to assume the contractual and legal responsibility to *provide, electric generation service for use by retail customers*. The term includes, but is not limited to, load serving entities, marketers and brokers that *offer or provide electric generation service for use by retail customers*. An electric power supplier *generates electricity or buys electric generation and sells it to others for use by retail customers*. An electric public utility that provides electric generation service only for the purpose of providing basic generation service is not an electric power supplier. N.J.A.C. 14:4-1.2 (emphasis supplied).

As would be expected, the clear focus of the definition is on entities that, in a variety of capacities, provide “electric generation service” to the public at large. Similarly, the LR Rules define “electric generation service” as “the *provision of retail electric energy and capacity* which

is generated off-site from the location at which the consumption of such electric energy and capacity is metered for *retail* billing purposes, including agreements and arrangements related thereto”. N.J.A.C. 14:1-1.2 (emphasis supplied). Here again, the clear focus of the rule is on the sale of electric power to third party customers by a competitive retail supplier or aggregator. The LR Rules do not include a separate definition of “load serving entity”.

In a similar vein, N.J.A.C. 14:1-1.2 defines “gas supply service” as “the provision to customers of the retail commodity of gas, but does not include any regulated distribution service”. The rule defines “gas supplier” as “a person that is licensed by the Board under EDECA to offer or provide gas supply service to retail customers. This term includes, but is not limited to, marketers and brokers, as defined herein...”

Given the rule’s primary focus on entities that engage in competitive retail sales of electric and gas to the public at large, it follows that many of the provisions in the LR Rules that are the subject of this rulemaking are inapplicable to Self-Supply LSE Customers that do not engage in retail sales. Thus, for example, the proposed amendments to the following rules clearly underscore their inapplicability to these customers:

--N.J.A.C. 14:4-5.1 (k): would require additional reporting regarding retail customer count, market share and company financials;

--N.J.A.C. 14:4-5.2(c): would require additional website reporting regarding projected price comparison information to facilitate choice of supplier by residential and commercial customers;

--N.J.A.C. 14:4-5.3(b): would require additional reporting regarding “green power services” offered, a summary of the material terms and conditions in residential contracts, and certifications regarding compliance with telemarketing and door-to-door solicitation rules;

--N.J.A.C. 14:4-5.7: would require an electric power supplier providing green power services supported by customers purchasing renewable energy certificates to provide evidence of certification and verification of status as renewable.

It is evident that these rules, and the proposed amendments to them, are inapplicable to Self-Supply LSE Customers. It therefore makes sense to use this rulemaking as an opportunity to amend the definitions of the entities that are subject to the LR Rules, which would clarify which rules apply to each category of LSEs and which provisions, such as the one pertaining to Electric Power Supplier license renewals, may appropriately be waived in defined circumstances or potentially avoided entirely by Self-Supply LSE Customers.

II. Added and Amended Definitions

NJLEUC respectfully recommends that the following definition of a Self-Supply LSE Customer be added to N.J.A.C. 14:4-1.2 to clarify which of the various provisions of the LR Rules apply to the different categories of entities that are now broadly categorized as load serving entities:

“Self-Supply LSE Customer” means a large volume commercial or industrial business entity that is licensed by the Federal Energy Regulatory Commission as a load serving entity, a member of PJM for the purpose of purchasing electric energy and capacity [and/or natural gas] in the wholesale markets solely for the customer’s own consumption and does not provide electric generation service [and/or gas supply service] for use by third party retail customers.

References to “Self-Supply LSE Customer” could then be inserted into any section of the LR Rules that is deemed to be applicable to these customers.

Similarly, the definitions of “Electric Power Supplier” and “Gas Supplier” as currently set forth in N.J.A.C. 14:4-1.2, should be amended to exclude Self-Supply LSE Customers in a manner similar to the treatment accorded to utilities that provide basic generation service or gas distribution service. We suggest that the following language should be added to the end of the existing definitions:

“...A Self-Supply LSE Customer is not an electric power supplier” (or, alternatively, “A Self-Supply LSE Customer is not a gas supplier”).

The inclusion of these definitions would effectively eliminate current ambiguities in the LR Rules regarding their applicability to LSEs that are not engaged in retail sales of electric generation service or gas supply service, the primary focus of the rules.

Waiver of Licensing Requirement For Self-Supply LSE Customers

NJLEUC supports the Board’s proposed waiver of the licensing requirement for large volume end-users that act on their own behalf in arranging purchases of electric and/or natural gas. However, we urge that changing the definitions of electric generation supplier and gas supplier to exclude large volume end-users that satisfy the definition of a Self-Supply LSE Customer is a more effective way to address the issue and would minimize the paperwork and burden associated with waiver applications, administrative review and utility notice requirements.

Consistent with the comments in the prior section, it makes little sense to hold Self-Supply LSE Customers to the same standards as competitive marketing entities that provide services to the public at large, thereby triggering a host of reporting, consumer protection and other concerns. As a practical matter, the annual filings currently made by industrial end-users vary little, if at all, from year to year as most reporting requirements applicable to the license renewals focus on issues pertaining to retail sales of electricity to third party customers that are not applicable to end-use customers acting on their own behalf. I am advised by NJLEUC members that many of the questions that are posed in the annual renewal forms consistently elicit “not applicable” responses.

Nor do industrial customers provide transmission or distribution services to serve their own requirements, but rely instead on PJM for transmission services and their local electric distribution company for distribution services. Therefore, transportation-related language in the proposed rule should not be required.

We suggest the following revised language for the waiver provision to be included as N.J.A.C. 14:4-5.1 (c):

A customer previously licensed by the Board as an Electric Power Supplier or determined by the Board to be a Self-Supply LSE Customer shall not be required to file for an electric power supplier license and/or gas supplier license or to renew an existing electric power supplier license or gas supplier license. A customer that seeks a determination by the Board that it satisfies the requirements applicable to a Self-Supply LSE Customer shall provide a one-time application to the Board, on notice to its local distribution company, for approval as a Self-Supply LSE Customer. The application shall be supported by documentation that demonstrates compliance with all applicable requirements pertaining to the Self-Supply LSE Customer's status as a load serving entity, including proof of licensure by the Federal Energy Regulatory Commission and membership in PJM. A customer determined by the Board to be a Self-Supply LSE Customer shall provide prompt notification to the Board and its local distribution company regarding any change in the customer's status that would affect the customer's classification as a Self-Supply LSE Customer. In such circumstances, the Board may revoke the customer's status as a Self-Supply LSE Customer and require that a new application be filed with the Board to reinstate the customer's status as a Self-Supply LSE Customer.

III. The Bonding Requirement Should Be Eliminated For Self-Supply LSE Customers

N.J.A.C. 14:4-5.4 requires electric power suppliers and gas suppliers to post a \$250,000 surety bond for at least as long as the license remains in effect, including all renewal periods. The rule permits the Board to modify the surety bond amount "commensurate with the amount of anticipated business to be conducted in New Jersey". N.J.A.C. 14:4-5.4(h).

This provision evidences that the surety bond requirement was implemented as a consumer protection device, establishing a fund of money to provide recourse against marketers or aggregators that engage in conduct that damages customers. Because Self-Supply LSE Customers are not engaged in the marketing of electric or natural gas to retail customers, it should be evident that the surety bond requirement is unnecessary in this context and should not apply to them.

At present, several NJLEUC members that are licensed as Electric Power Suppliers have been required to post \$250,000 bonds, which are essentially held permanently by their local distribution utilities. What this means in practical terms is that these customers have been required to advance \$10,000 -- the price of the bond -- as a non-reimbursable, non-interest bearing cost, to be incurred for as long as the customers procure their own power. There does not appear to be a vehicle for them to reduce the payment under the rule as the Board's authority to modify the amount is tied solely to the amount of business the "suppliers" conduct in the State.

Because no other customers are affected by the procurement activities of Self-Supply LSE Customers, it should follow that the bond requirement should not apply in these

circumstances. There are no customers to protect so there is no need to create a fund of money to protect against liabilities that simply will not occur.

NJLEUC respectfully submits that the surety bond requirement should be removed for customers that are determined to be Self-Supply LSE Customers and the utilities should be directed to return all surety bonds currently being held on their behalf.

IV. Non-Applicability of the Renewable Portfolio Standard to Self-Supply LSE Customers

The last sentence of the proposed amendment to N.J.A.C. 14:4-5.1(c) makes reference to mandating compliance by an industrial large volume end-user with, among other things, “any relevant clean energy supplier requirements”. The proposed amendment does not explain what is meant by this provision or the scope of the compliance obligation. The apparent ambiguity of the proposed rule is a matter of concern as it could be interpreted to require industrial large volume end-use customers to comply with significant renewable portfolio standards (“RPS”) obligations that until now have only been applied to marketers and aggregators.

Board staff has for years advised NJLEUC members that are large volume end-user LSEs that purchase their own electricity in the wholesale market that N.J.A.C. 14:8-2.1 relieves them of the obligation to comply with the renewable portfolio standards. This is so because by its terms, the rule applies only to retail sales by a third party supplier or BGS provider “as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey...”. N.J.A.C. 14:8-2.1(a). It is noteworthy that the rule “does not apply to a private or government aggregator that contracts for electric generation service or electric-related services, either separately or bundled, for its own facilities...” N.J.A.C. 14:8-2.1(c).

These rules are therefore consistent with the enabling statute, N.J.S.A. 48:3-87, which contains multiple provisions that impose the RPS obligation only in connection with sales by electric power suppliers and basic generation service providers “that provide electricity to customers within the state”. See, N.J.S.A. 48:3-87(c) (2). The statute further makes clear that the RPS requires electric power suppliers and basic generation service providers to include within their energy portfolio a stated percentage of kilowatt hours of renewable energy based upon the total electricity sold by them in the state. N.J.S.A. 48:3-87(d) (1). Thus, the RPS obligation is tied specifically to the volume of third party sales made by electric power suppliers and basic generation service providers to customers within the state.

Therefore, Board staff has been correct in advising NJLEUC members that the RPS obligation does not apply to industrial end-use customers that procure electric in the wholesale markets for the sole purpose of serving their own load.

However, staff has recently advised several NJLEUC members that a “re-evaluation” is occurring whether the exemption still applies in light of the recent adoption of the Clean Energy Act of 2018 (“CEA”) and the fact that the Board never issued a formal order regarding the availability of the RPS exemption to industrial end-use customers that self-supply their own requirements.

While it is true that the CEA contains new RPS target requirements, the CEA does not contain language that amends in any manner the language cited above that ties the RPS obligation directly to sales of electricity to customers within the state. Nor does the CEA contain any express or implied term that purports to include, for the first time, currently exempt industrial end-use customers that procure electric in the wholesale markets solely for their own account within the definition of electric power suppliers that are subject to the RPS requirements. See, N.J.S.A 48:3-87(c) and (d). Therefore, because the enabling statute has not changed in this regard, there is no basis for amending the rules enacted under the authority of the statute.

Clearly, the imposition of this additional tax, when combined with ZECs, ORECs, the costs associated with utility infrastructure programs, increased transmission costs, higher distribution rates and other such expenses will make New Jersey businesses less competitive and less viable and could hasten the departure of more businesses from the state. As NJLEUC has repeatedly stated, the business community should not be viewed as a bottomless funding pit, particularly when programs being developed impose annual seven figure obligations without providing a commensurate increase in the quality of service.

In a word, there is no legal or policy basis to impose the RPS requirements on Self-Supply LSE Customers, but there are some very strong financial and economic development/job retention reasons not to do so. We therefore urge the Board to remove the reference to “relevant clean energy supplier requirements” from the proposed rule and to separately reaffirm its policy to exempt industrial end-use customers from requirements associated with the renewable portfolio standards.

NJLEUC appreciates the opportunity to provide these comments to the Board.

Respectfully submitted,

Steven S. Goldenberg

Giordano Halleran & Ciesla

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NRG Energy, Inc.
3711 Market Street, Suite 1000
Philadelphia, PA 19104

October 25, 2019

VIA ELECTRONIC AND REGULAR MAIL

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***Re: Licensing/Registration Rules and Annual Information
Update Form Comments Docket No. AX19091003***

Dear Secretary Camacho-Welch:

Please accept these comments of NRG Energy, Inc. ("NRG") in response to the request for comments from the Board of Public Utilities ("Board") in the matter of the Board's review of the Energy Competition Licensing/Registration Rules and Annual Information Update Form. A Fortune 500 company, NRG is headquartered in Princeton, NJ, and is a leading integrated power company built on dynamic retail brands with diverse generation assets. NRG brings the power of energy to consumers by producing, selling, and delivering electricity, natural gas, and related products and services to more than 3 million customers in competitive markets across the U.S., including in New Jersey. NRG's retail companies have more than 25 years combined experience with retail energy competition and customer service. The company has six licensed retail companies that are actively serving residential, commercial, industrial, and institutional customers across New Jersey.¹ These NRG

¹ NRG provides third party supply services in New Jersey through the following entities: Energy Plus Holdings: ESL-0087, GSL-0100; Independence Energy Group LLC: ESL-0100; Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business: ESL-0093, GSL-0175; Green Mountain Energy

retail companies offer customers a range of products including 100% renewable, cash back rewards, travel rewards, and community based Choose to Give plans.

NRG commends the Board and its Staff for engaging stakeholders in an informal discussion of the draft licensing and registration rules and interim annual information update form before Staff recommends rule modifications and finalizes the annual information update form. This proceeding offers an important opportunity to update the Board's licensing and registration processes in a manner that simplifies the process for third-party suppliers ("TPS" or "supplier"), streamlines the administration of licensing for Staff, and improves the competitive energy marketplace for New Jersey consumers. NRG supports many of the proposed rule changes that Staff has identified. In addition, NRG supports the comments filed by the Retail Energy Supply Association ("RESA") of which it is a member. NRG offers these comments as additional recommendations for how the draft licensing and registration rules and interim annual information update form can be further improved and refined.

ENERGY COMPETITION LICENSING AND REGISTRATION RULES

N.J.A.C. 14:4-5.1(c) – Licensing Waiver for Industrial Large Volume End User

NRG opposes Staff's proposal to allow "industrial large volume end users" who self-supply their own end use needs to request a waiver from the Board to file for a TPS license. While NRG understands that some of the energy competition rules may have limited import for entities that are only supplying their own energy needs, creating this licensing waiver will diminish the transparency of New Jersey's energy consumption and supply characteristics and will create ambiguity about the requirements applicable to industrial large volume end users. The regulatory clarity

Company: ESL-0098; XOOM Energy New Jersey, LLC: ESL-0115, GSL-0112; and Stream Energy New Jersey, LLC: ESL-0109, GSL-0120.

from a standardized licensing and registration process is ultimately more beneficial than the minor administrative efficiencies gained through the creation of such a waiver.

N.J.A.C. 14:4-5.1(I) – Confidential Information

NRG supports Staff's proposal to classify TPS customer counts, market share, and private financials as confidential information. Importantly, individual customers' personally identifiable information and individual energy consumption can be easily discerned when limited data is aggregated. Staff's proposal to classify TPS customer counts, market share, and private financials as confidential information is necessary to protect the privacy of individual customers and the proprietary rights of suppliers.

N.J.A.C. 14:4-5.2(b) – New Jersey Office

NRG recommends that Staff further revise N.J.A.C. 14:4-5.2(b) to allow for the use of an alternative mailing address to the physical New Jersey office for official correspondence. Such a revision is necessary to accommodate the time sensitivity of important regulatory issues and the physical location of TPS staff that handle Board-related matters. In addition, the Board should codify in rule that it will use electronic delivery, in addition to physical copies when necessary, for all pertinent correspondence.

N.J.A.C. 14:4-5.2(c)(2) – Pricing Information

NRG opposes the proposed revisions to N.J.A.C. 14:4-5.1(c)(2) that would require suppliers to maintain a direct link to the supplier's Internet website with "projected price comparison information" for residential customers and commercial customers with a peak load of 50 kW or less. Putting aside the fact that it is not at all clear what Staff intends by "projected price comparison information", NRG does

not project prices into the future for itself or for BGS suppliers. Moreover, NRG, like many other suppliers, offers a range of products including 100% renewable, cash back rewards, travel rewards, and community based Choose to Give plans that are simply not comparable on an apples-to-apples basis to the products offered by BGS suppliers. NRG also offers multiple price options for products, but their availability to any particular customer are dependent on numerous factors including customer class and utility service territory. It is impractical to require suppliers operating in multiple jurisdictions to provide a direct link to pricing information because the supplier needs information about the prospective customer such as its customer class and zip code to know what prices and services are available to that specific customer.

N.J.A.C. 14:4-5.3(b) – Application Information

NRG supports adding “green power services” to the list of required information to the TPS application but recommends that term is defined to mean *voluntary* renewable products that are distinct from, and additional to, the RPS requirement.

N.J.A.C. 14:4-5.4(f) – Surety Bond

NRG recommends that the Board provide more flexibility and increased options for the financial guarantees in addition to a surety bond, as is done in most other jurisdictions, such as allowing for letters of credit or guarantees from the parent company.

N.J.A.C. 14:4-5.5(h) & (i) – Notifications to the Board

NRG opposes the requirements that a licensee or registrant notify Board Staff at least 30 calendar days prior to any material change or change of control. The precise timing of such events is often not clearly understood or even anticipated

more than 30 days in advance. Moreover, the Board has no reason to require advance notice because it does not review or approve such events, which lie outside of its jurisdiction. Accordingly, the notice requirement for both rules should be within 30 calendar days *after* the material change or change of control event takes place, as is done in most other jurisdictions.

N.J.A.C. 14:4-5.7 – Expiration Of License

NRG strongly encourages the Board to list the anniversary date of all licensed suppliers on its website to facilitate compliance tracking for suppliers. In addition, the Board should implement a mechanism to confirm that a supplier's license has not expired and that the supplier remains in good standing once it receives the supplier's timely annual information update and licensing fees.

N.J.A.C. 14:4-5.7(d)(11) – REC Certification And Verification

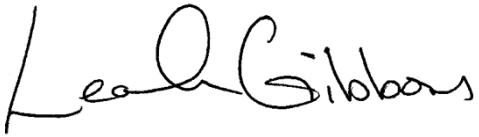
NRG supports Staff's proposal to require any licensee providing voluntary green power services where customers may support the funding of Renewable Energy Certificates to provide evidence of certification and verification. The Board, however, should confirm that a printout from a REC registry (i.e., GATS, ERCOT, MRETS, NYGATS, etc.) is sufficient to demonstrate compliance with this proposed rule.

N.J.A.C. 14:4-5.7(g) – Notification To LDCs

NRG strongly opposes the proposal to require suppliers to provide a copy of its annual information update to all LDCs within whose territory they provide service. Much of the information contained in the update will be confidential. Suppliers should not be required to provide detailed information about its business, especially confidential information, to their competitors. Any notice to LDCs should be limited to confirming that the annual information update filing was made.

TPS Licensing/Registration
October 25, 2019
Page 6 of 6

Respectfully submitted,

A handwritten signature in black ink that reads "Leah Gibbons". The signature is written in a cursive style with a large, prominent "L" and "G".

Leah Gibbons
Director Regulatory Affairs
NRG Energy, Inc.
301.509.1508
lgibbons@nrg.com

October 25, 2019

VIA ELECTRONIC AND REGULAR MAIL

Aida Camacho-Welch, Secretary of the Board
New Jersey Board of Public Utilities
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***Re: Licensing/Registration Rules and Annual Information Update Form
Comments Docket No. AX19091003***

Dear Secretary Camacho-Welch:

On behalf of our client, the Retail Energy Supply Association (“RESA”),¹ please accept these comments in response to the Board of Public Utilities’ (“Board’s”) request for comments in the matter of the Board’s review of the Energy Competition Licensing/Registration Rules and Annual Information Update Form. As active participants in New Jersey’s competitive energy marketplace, RESA’s membership would like to thank the Board for opening this docket and for the helpful and thoughtful changes made to the Interim Annual Information Update Form and the proposed revisions identified in the Draft Proposed Rule circulated by Staff at the October 4, 2019 Stakeholder Meeting. RESA supports many of the changes that Staff has proposed. RESA respectfully submits these comments to offer suggestions for how to further improve the rules.

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial, and industrial energy customers. More information on RESA can be found at www.resausa.org.

Energy Competition Licensing/Registration Rules

N.J.A.C. 14:4-5.1(c) – Industrial large volume end user

RESA does not object to Staff’s proposal to allow “industrial large volume end users” who self-supply their own end use needs to request a waiver from the Board to file for a third-party supply (TPS) license. RESA suggests, however, that the proposed rule should more clearly define the criteria for qualifying as a “industrial large volume end user” and the Board should ensure that these consumers are subject to any reporting requirements necessary for the Board to fully understand New Jersey’s energy consumption and supply characteristics. In addition, RESA is concerned that the waiver could lead to confusion about what specific “requirements” apply to industrial large volume end users.

N.J.A.C. 14:4-5.1(l) – Confidentiality claims

RESA strongly supports Staff’s proposal to designate TPS customer counts, market share, and financials (unless already publicly available) as confidential information. It is essential for this information to receive confidential treatment to protect the privacy of TPS customers as well as the business interests of suppliers. Even when such information is aggregated, customer specific information can be discerned if the aggregated data is not sufficiently diverse.

RESA proposes that the Board provide a model confidentiality agreement as part of its Initial Application and Annual Information Update Form to facilitate and standardize the process of designating information as confidential. RESA has attached to its comments a model confidentiality request and affidavit for this purpose.

In addition, RESA suggests that the Board provide, either in its proposed rule or on its forms, that an applicant providing publicly available financial information such as a 10K or 10Q may provide a link to such information rather than providing a printed copy with the Initial Application and Annual Information Update.

N.J.A.C. 14:4-5.2(c)(2) – Supplier website with pricing information

RESA opposes the addition of N.J.A.C. 14:4-5.1(c)(2). RESA does not object to requiring each supplier to provide and maintain a current link to its website where pricing information for residential customers and commercial customers with a peak load of 50 kW or less may be obtained; however, the proposed rule, as written, is internally inconsistent, overly burdensome on suppliers, and potentially misleading to customers for multiple reasons. First, requiring suppliers to maintain a website with “projected price comparison information” is impractical. Suppliers generally do not project their prices, let alone project how and when a public utility will file for a rate increase or if and to what extent the Board will grant that rate increase. Moreover, requiring “projected price comparison information” to be “current and accurate” is both illogical and so ambiguous as to be meaningless because there is no such thing as facts about the future. Second, providing customers with “projected price comparison information” would not help customers make informed choices unless the methodology for determining the projected price comparison is standardized throughout New Jersey’s retail market. Third, the Board’s current reference point—the “price to compare”—is not transparent, accurate, or uniform. The Board does not have a rule for how the price to compare is calculated, so it is not clear what goes into the the price to compare or whether the price to compare is calculated consistently across utilities. Moreover, the price to compare is not an apples-to-apples comparison because TPS products and services are often not equivalent to that of the utility. Many suppliers offer value-added products and services that complement the energy supply, and some suppliers only offer green products, the price of which should not be compared to a BGS supplier’s “brown” product. Finally, it is not practical to require suppliers, most of whom operate in multiple jurisdictions, to provide a “direct link” to their pricing information because the suppliers would need information about the prospective customer such as their customer class and zip code to know what prices and services are available for that specific customer. For small commercial customers, in particular, suppliers often need to understand the customer’s load profile and how it contributes to PJM’s five coincidental peaks before they can

provide a current and accurate price offer. Accordingly, RESA opposes the addition of N.J.A.C. 14:4-5.1(n)(c)(2).

N.J.A.C. 14:4-5.3(b) – Application information

RESA supports the additions to the list of required information to the TPS application, including: listing green power services; providing the material terms and conditions summary page; and requiring certifications, under oath, that the applicant is in compliance with all FTC Telemarketing Sales Rules and applicable door-to-door standards, rules, and regulations. RESA, however, recommends that the Board define “green power products” as voluntary and distinct from the RPS requirements. In addition, if certifications, under oath, are required, the Board should include in its Initial Application and Annual Information Update Form a model affidavit for these certifications.

N.J.A.C. 14:4-5.5(h) – Board notification of a material change

RESA opposes the requirement that a licensee or registrant notify Board Staff “at least 30 calendar days prior to any material change in the organizational structure or operation of a licensee’s business.” Requiring such advanced notice is overly burdensome to suppliers and unnecessary to protect customers. Suppliers are not always aware of material changes to their businesses more than 30 days before they occur. Moreover, customer supply agreements and compliance with the Board’s energy competition rules ensures New Jersey customers are protected from potential harms. Accordingly, notice *within* 30 calendar days after the material change occurs should remain the notice requirement.

N.J.A.C. 14:4-5.5(i) – Board notification of a change of control

RESA opposes the requirements that a licensee or registrant notify Board Staff “at least 30 calendar days prior” if it reorganizes, restructures, merges with another entity, acquires another company, or is acquired by another company. Requiring 30 days advanced notice is overly

burdensome to suppliers, creates compliance issues, and does not help protect customers. Importantly, the Board has no jurisdiction over a change of control of a supplier's business. The Board does not review these transactions and its approval is not required to transfer control. Moreover, customer supply agreements and compliance with the Board's energy competition rules adequately protects New Jersey customers. Accordingly, the Board has no reason to require notice prior to the effective date of the change of control.

In addition to there being no practical purpose for requiring at least 30 days advanced notice, doing so is overly burdensome to suppliers and creates compliance issues. Importantly, suppliers often do not know *if*, let alone the precise date when, a change of control will occur until the transaction is closed. Change of control transactions are often dependent on many factors outside the control of the supplier such as market conditions, securing financing, regulatory approvals, and the decisions of external parties. Because the Board has no reason for requiring the information prior to the effective date of the change of control, this rule should be revised to require notice *within* 30 calendar days of the effective date of the change of control. Indeed, it is more appropriate for the entity after the change of control takes place to notify the Board than to place the notice requirement on an entity that may not exist once the change of control occurs.

N.J.A.C. 14:4-5.6 – Term and expiration of supplier license

RESA supports the proposed changes to N.J.A.C. 14:4-5.6. RESA, however, recommends that the Board add a section to this rule providing that Board Staff will confirm that a supplier's license has not expired and the supplier remains in good standing once it receives the supplier's timely annual information update in compliance with N.J.A.C. 14:4-5.6(a). Receiving such a confirmation from the Board is important because suppliers often must demonstrate that they remain in good standing in response to a request for proposal or to obtain the business of certain customers or brokerage services. The Board could accomplish this confirmation of good standing by sending the supplier a confirmation letter when it receives the supplier's timely annual information update

in compliance with N.J.A.C. 14:4-5.6(a) or it could maintain an online database that provides each supplier's license anniversary date and confirms whether or not the supplier is in good standing.

N.J.A.C. 14:4-5.7(a) – Anniversary date

RESA strongly supports a rule revision that will provide for a fixed annual “anniversary date” for each supplier as long as their Annual Information Update Applications and fees are timely filed. A fixed anniversary date will help facilitate compliance by reducing confusion and it will enable surety bonds to be synchronized with the license period. The proposed rule, however, implies that the anniversary date would change based on when the license application is approved each year.

RESA recommends revising the rule to provide for a fixed annual anniversary date that is either the date that the initial license is approved or a date assigned by the Board. The latter option would enable Staff to better manage its workload by evenly distributing license renewals throughout the year.

N.J.A.C. 14:4-5.7(d)(11) – REC certification and verification

RESA supports the proposal to require any licensee providing voluntary green power services where customers may support the funding of Renewable Energy Certificates (“RECs”) to provide evidence of certification and verification as long as the rule is revised to confirm that compliance can be demonstrated by submitting an annual report demonstrating that the RECs were retired with either the PJM-EIS GATS or another regional renewable energy certificate tracking system. These tracking systems were created (in the case of GATS, with seed money from the Board) for exactly this purpose—to facilitate tracking and compliance. Moreover, GATS is a system that suppliers and the Board Staff are familiar with because it is already used to demonstrate compliance with the state's renewable portfolio standard.

RESA, however, does not support requiring suppliers to provide evidence of certification and verification from Green-e, as was mentioned by Staff at the October 4, 2019 Stakeholder Meeting. Importantly, certification of a Green-e Energy product requires an annual base and volumetric fee, so mandating such a certification would not only be burdensome to suppliers and drive up costs for customers, but it could also severely limit the availability and use of voluntary green power services to New Jersey consumers.

N.J.A.C. 14:4-5.7(g) – Notification to LDCs

RESA strongly objects to the proposed rule requiring suppliers to provide a copy of their Annual Information Update to all LDCs within whose territory they provide service. Much of the information contained in the update will be confidential. Suppliers should not be required to provide detailed information about its business, especially confidential information, to their competitors. Moreover, the proposed requirement is overly burdensome on suppliers and on the LDCs, which would have to manage and maintain the influx of applications. At most, suppliers should be required to confirm that their licenses have been renewed.

In conclusion, RESA supports the Board's review of the Energy Competition Licensing/Registration Rules and Annual Information Update Form and encourages the Board to include the changes detailed above to further improve energy competition in New Jersey. Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,



Murray E. Bevan

[date]

Secretary
State of New Jersey
Board of Public Utilities
44 S. Clinton Ave., 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

**Re: [Company Name]
Confidentiality Request**

Dear Secretary:

[Company Name] respectfully requests that the Board accord confidential treatment to [description or name of document(s)] due to the confidential and proprietary information contained therein. Such information is not made available to the public. General dissemination of the information contained in the [name of document(s)] would harm the position of [Company Name] in the marketplace as it would provide its competitors with financial data and other proprietary information critical to their ability to do business in the state. Further, [Company Name] requests that the [name of document(s)] be perpetually held as confidential due to the presumed perpetual existence of its business.

In accordance with N.J.A.C. 14:1-12.8(b), [Company Name] has attached to this correspondence the affidavit of [name of Affiant] attesting to the truth and accuracy of the Notice to the Board. Lastly, pursuant to N.J.A.C. 14:1-12.4, 12.5, [Company Name] hereby designates the following individual to receive all notices and correspondence regarding this license application:

[Name and address of contact]

If you have any questions or require further documentation, please do not hesitate to contact me.

Respectfully submitted,

[Name of Company Representative]

