

rules regarding the maintenance of motor vehicle liability insurance coverage for such vehicles. This amendment is proposed pursuant to P.L. 2023, c. 276, which amends section 1 at P.L. 1972, c. 197 (N.J.S.A. 39:6B-1), by increasing the motor vehicle liability insurance coverage requirements for motor vehicles principally garaged in the State of New Jersey.

N.J.A.C. 13:20-52.1(a) sets forth liability insurance for bodily injury and property damage for all vehicles used for the transportation of pupils to and from school and school-related activities.

The proposed amendment removes the specified dollar amount of the liability insurance required to be maintained and replaces it with direct reference to the authorizing statute, N.J.S.A. 39:6B-1.a. The proposed amendment is intended to prevent a delay in notification of statutory changes to the public and owners of motor vehicles used for the transportation of pupils to and from school and school-related activities. It also alleviates the necessity of regulatory change, if and when statutory changes are made in the future.

The public comment period for this notice of proposal will be 60 days, since the notice is not listed in the agency calendar. This notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment will have a positive social impact on the public, and owners and operators of motor vehicles used for the transportation of pupils to and from school and school-related activities, because it will avoid notice issues and any confusion about the amount of motor vehicle liability insurance coverage required for vehicles used for the transportation of pupils to and from school and school-related activities, if and when insurance amounts are changed, by statute, and where applicable, regulations may not yet reflect those changes.

Economic Impact

The Commission does not anticipate any significant economic impact as a result of the proposed amendment. While the authorizing statute increases the amount of motor vehicle liability insurance coverage that owners of motor vehicles used for the transportation of pupils to and from school and school-related activities must carry, the proposed amendment does not impose any costs.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment is dictated by State statute and is not subject to Federal requirements or standards.

Jobs Impact

It is expected that the proposed amendment will have no impact on jobs within the State.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry. The proposed amendment is not intended to regulate farming, crop, or animal production, and pertains solely to motor vehicle liability insurance coverage required to be maintained for motor vehicles used for the transportation of pupils to and from school and school-related activities.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed amendment does not impose reporting, recordkeeping, or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment pertains solely to motor vehicle liability insurance coverage required to be maintained for motor vehicles used for the transportation of pupils to and from school and school-related activities.

Housing Affordability Impact Analysis

It is not anticipated that the proposed amendment will have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendment will evoke a change to the average costs associated with housing because the proposed amendment pertains solely to motor vehicle liability insurance coverage required to be

maintained for motor vehicles used for the transportation of pupils to and from school and school-related activities.

Smart Growth Development Impact Analysis

The Commission does not anticipate that the proposed amendment will have an impact on smart growth as there is an extreme unlikelihood that the proposed amendment would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan, since the proposed amendment pertains to motor vehicle liability insurance coverage required to be maintained for motor vehicles used for the transportation of pupils to and from school and school-related activities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendment will have no impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State, as the proposed amendment pertains solely to motor vehicle liability insurance coverage required to be maintained for motor vehicles used for the transportation of pupils to and from school and school-related activities. Accordingly, no further analysis is required.

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

SUBCHAPTER 52. INSURANCE

13:20-52.1 General provisions

(a) Each contractor and district board of education shall furnish liability insurance for bodily injury and property damage in the amount [of \$ 1,000,000 combined single limit per occurrence] **set forth at N.J.S.A. 39:6B-1.a** for all vehicles which are used for pupil transportation to and from school and [school related] **school-related** activities.

(b)-(i) (No change.)

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Energy Competition

Proposed Readoption with Amendments: N.J.A.C. 14:4

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

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

Authority: N.J.S.A. 48:2-13; 48:2-16, 16.1 through 16.4, 17, 20, 23, 24, 25, and 27; 48:3-2.3, 3, 4, 7.8, 50-59, 78-86, 88-98, and 98.5.

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

BPU Docket Number: EX25040201.

Proposal Number: PRN 2026-012.

The deadline for comments on this matter is 5:00 P.M. on April 3, 2026. Please submit comments directly by using the Board of Public Utilities' Public Document Search tool, search for the specific docket listed above, and post by utilizing the "Post comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Sherri L. Lewis
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Attn: BPU Docket Number: EX25040201
Email: board.secretary@bpu.nj.gov
Phone: 609-292-1599

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

The agency proposal follows:

Summary

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

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

In accordance with N.J.S.A. 52:14B-5.1, the rules proposed for readoption with amendments and new rules were scheduled to expire on February 27, 2026. By filing this notice of proposed readoption with amendments and new rules with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to August 26, 2026, pursuant to N.J.S.A. 52:14B-5.1.c(2). As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

A Summary of N.J.A.C. 14:4 follows:

Subchapter 1. General Provisions and Definitions

N.J.A.C. 14:4-1.1 sets forth the scope and applicability of the chapter. The Board proposes to add new subsection (c) to clarify that, for the purposes of this chapter, the same requirements and regulations that apply to a public utility holding company and its related competitive business segments apply to all entities, other than public utility holding companies, that own public utilities and their related competitive business segments. N.J.A.C. 14:4-1.2 sets forth definitions of general applicability. The Board proposes to amend the definitions for the terms “gas supplier” to include the term “natural gas supplier”; “PJM Interconnection” or “PJM,” to update a website address; and “slamming” to clarify that the definition applies to the entire chapter. The Board also proposes to add “preferred supplier freeze” as a newly defined term that means to elect to restrict any future switch of providers.

Subchapter 2. Energy Anti-Slamming

N.J.A.C. 14:4-2.1 sets forth the scope of this subchapter.

N.J.A.C. 14:4-2.2 sets forth subchapter definitions.

N.J.A.C. 14:4-2.3 sets forth requirements for change orders required for switches.

N.J.A.C. 14:4-2.4 sets forth requirements for signing up or switching customers electronically.

N.J.A.C. 14:4-2.5 requires that third-party suppliers (TPS) keep records of customer authorizations.

N.J.A.C. 14:4-2.6 requires local distribution companies (LDC) to notify the customer of a change order and sets forth the timing requirements for switches. The Board proposes to add new subsections (d) and (e) to provide a description of the notice a customer may receive when they have a preferred supplier freeze pursuant to new N.J.A.C. 14:4-2.6A. Subsection (d) also provides that the LDC shall reject the enrollment with the new supplier when the customer has a preferred supplier freeze in place, unless the request is to switch the customer’s electric generation service provider to BGS or gas supply service provider to BGSS because the TPS is no longer able to provide service.

N.J.A.C. 14:4-2.6A is a new section that sets forth requirements for preferred supplier freezes, which allow customers to lock in their selection of gas and/or electric supplier in order to prevent potential unauthorized supplier changes. This section establishes the procedures and notification

standards for the LDC concerning the implementation, lifting, and communication of such a freeze to the customer and the TPS.

N.J.A.C. 14:4-2.7 sets forth requirements for slamming complaints and investigations.

N.J.A.C. 14:4-2.8 sets forth the penalties for violating this subchapter.

Subchapter 3. Affiliate Relations

N.J.A.C. 14:4-3.1 sets forth the scope of this subchapter. The Board proposes to amend subsection (a) to clarify that the affiliate relations standards of conduct set forth at N.J.A.C. 14:4-3.3, 3.4, and 3.5 also apply to interactions and relationships between an electric public utility or gas public utility and affiliated competitive business segments and interactions and relationships between an electric public utility or gas public utility and holding companies and their related competitive business segments.

N.J.A.C. 14:4-3.2 sets forth definitions applicable to the subchapter. The Board proposes to amend the definition of “fully allocated cost” to correct a reference to personnel and administrative costs and clarify language.

N.J.A.C. 14:4-3.3 sets forth provisions concerning nondiscrimination.

N.J.A.C. 14:4-3.4 sets forth provisions concerning information disclosure.

N.J.A.C. 14:4-3.5 sets forth provisions concerning separation of corporate entities.

N.J.A.C. 14:4-3.6 sets forth provisions concerning competitive products and/or services offered by a utility or related competitive business segment of a utility.

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

N.J.A.C. 14:4-3.8 sets forth provisions concerning dispute resolution.

N.J.A.C. 14:4-3.9 sets forth provisions concerning violations and penalties. The Board proposes to amend subsection (b) to correct the spelling of the word “competitive.”

At N.J.A.C. 14:4-3 Appendix, the Board proposes to amend section 2(1)(a)(ix) to clarify the derivation of the proposed charge for each competitive service offering. The Board proposes to amend section 2(1)(a)(xii) to clarify the language governing requested price comparison information without changing the meaning.

Subchapter 4. Public Utility Holding Company (PUHC) Standards

N.J.A.C. 14:4-4.1 sets forth the scope of this subchapter.

N.J.A.C. 14:4-4.2 sets forth definitions applicable to this subchapter.

N.J.A.C. 14:4-4.3 sets forth provisions concerning asset investments.

N.J.A.C. 14:4-4.4 sets forth provisions concerning access to information. The Board proposes to add new subsection (m), which governs the treatment of information provided to the Board and Board staff pursuant to this section and N.J.A.C. 14:3-6.3. New subsection (n) sets forth the rules regarding confidentiality.

N.J.A.C. 14:4-4.5 sets forth provisions concerning service agreements.

N.J.A.C. 14:4-4.6 sets forth provisions concerning structural separation.

N.J.A.C. 14:4-4.7 sets forth provisions concerning operational separation.

Subchapter 5. Energy Licensing and Registration

N.J.A.C. 14:4-5.1 sets forth the scope of this subchapter and provides general provisions. The Board proposes to amend paragraph (h)3 to clarify a reference to electric power supplier license applications and subsection (j) to add, update, and correct the internet address.

N.J.A.C. 14:4-5.2 addresses basic requirements for an electric supplier or gas supplier license.

N.J.A.C. 14:4-5.3 sets forth the application contents for an initial electric supplier or gas supplier license.

N.J.A.C. 14:4-5.4 sets forth the procedures for Board review of an application for an initial license or annual information update form filing by an electric power or gas supplier. The Board proposes to amend subsection (f) to clarify the purposes for which the surety bonds required

pursuant to this subsection are held, consistent with the language presently used in the surety bonds themselves. The Board proposes minor typographical amendments to clarify language at subsections (h) and (i).

N.J.A.C. 14:4-5.5 sets forth requirements that apply after a license is issued. The Board proposes amendments to clarify language at subsection (f) and paragraph (i)2. Consistent with Board practice, proposed new subsection (k) provides requirements for the return of surety bonds associated with electric power or gas supplier licenses in order to clarify the conditions through which a surety bond may be returned.

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

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

N.J.A.C. 14:4-5.8 sets forth the registration requirements for an energy agent or private aggregator.

N.J.A.C. 14:4-5.9 sets forth the registration annual information update form filing requirements for an energy agent or private aggregator.

N.J.A.C. 14:4-5.10 sets forth the LDC responsibilities. The Board proposes a typographical amendment to clarify language at subsection (b).

N.J.A.C. 14:4-5.11 sets forth the registration requirements for energy consultants.

N.J.A.C. 14:4-5.12 sets forth the fees for license or registration applications and annual information update form filing. The Board proposes amendments at subsection (a) to increase fee amounts for all license and registration applications and annual information update form filings. These fee amounts have not changed since the adoption of the EDECA and the increases are necessary to account for increased costs. In addition, the Board proposes an amendment at subsection (b) to clarify that an applicant for multiple licenses must post separate surety bonds for each license.

N.J.A.C. 14:4-5.13 sets forth the penalties for violating this subchapter.

Subchapter 6. Government Energy Aggregation Program

N.J.A.C. 14:4-6.1 sets forth the scope of this subchapter.

N.J.A.C. 14:4-6.2 sets forth definitions applicable to this subchapter. The Board proposes to amend this section to clarify that the definitions at N.J.A.C. 14:4-2.2 also apply to this subchapter, and to add new definitions for the terms "option 1 government-private energy aggregation program" and "option 2 government-private energy aggregation program."

N.J.A.C. 14:4-6.3 sets forth general provisions.

N.J.A.C. 14:4-6.4 sets forth the provisions for municipal and/or county energy aggregation programs. The Board proposes to amend the section by relocating existing subsection (g) as subsection (e) for clarity purposes. At relocated subsection (e), the Board proposes to add new sub-subparagraphs (e)1i(3) and 2i(3) to exempt from automatic enrollment, a residential customer with a preferred supplier freeze. These amendments are in accordance with the new preferred supplier freeze provisions that the Board is proposing to add at new N.J.A.C. 14:4-2.6A and are intended to ensure that customers who have chosen to have a preferred supplier freeze put in place are not automatically changed to a new supplier. The Board also proposes to amend paragraph (j)1 to change the name of the relevant division from the "Division of Energy" to the "Division of Revenue and Rates."

N.J.A.C. 14:4-6.5 sets forth the provisions for an option 1 government energy aggregation program. Consistent with the proposed amendments at N.J.A.C. 14:4-6.4, the Board proposes to amend paragraph (d)1 to exempt from the notice requirements of subsection (c) electric and gas customers who have a third-party supplier freeze in place and to add new sub-subparagraphs (k)1i(4) and 2i(4) to refine the group of customers that the LDC sends data for to exclude those with a preferred supplier freeze in place.

N.J.A.C. 14:4-6.6 sets forth the provisions for an option 2 government energy aggregation program. The Board proposes to add new sub-subparagraphs (g)1i(3) and 2i(3) to refine the group of customers that the LDC sends data for to exclude those with a preferred supplier freeze in place. The Board also proposes to amend subsection (u) to clarify that

automatic inclusion of residential customers who do not submit opt-out responses only applies to customers who were sent the notice.

N.J.A.C. 14:4-6.7 sets forth the requirements for the LDC aggregation agreement for government-private energy aggregation programs.

N.J.A.C. 14:4-6.8 sets forth the requirements for advertising for bids and contract award.

N.J.A.C. 14:4-6.9 sets forth the price requirements for government-private programs.

N.J.A.C. 14:4-6.10 sets forth the requirements of the contracts between a government aggregator and the selected TPS.

N.J.A.C. 14:4-6.11 sets forth the notice requirements for changes to active government-private energy aggregation programs.

Subchapter 7. Retail Choice Consumer Protection

N.J.A.C. 14:4-7.1 sets forth the scope of this subchapter.

N.J.A.C. 14:4-7.2 sets forth definitions applicable to this subchapter. The Board proposes to add a definition of "billing error," meaning a charge in excess of that set forth in the contract.

N.J.A.C. 14:4-7.3 sets forth the TPS advertising standards. The Board proposes to add new subsections (f) and (g) to require that a TPS provide advertising materials to Board staff upon request and to permit Board staff to direct a TPS to cease all advertising practices for a period of up to 60 days if the TPS is found to be in violation of TPS advertising standards. The restriction would be lifted if the TPS cures the violations, and Board staff could recommend further Board action against the TPS's license if the violations continue. These subsections are intended to enable Board staff to review TPS advertising materials for compliance with existing standards and to protect consumers from advertising practices that violate those standards.

N.J.A.C. 14:4-7.4 sets forth the TPS marketing standards. The Board proposes to add new subsections (p) and (q) to require that a TPS provide marketing materials to Board staff upon request and to permit staff to direct a TPS to cease all marketing practices for a period of up to 60 days if the TPS is found to be in violation of TPS marketing standards. The restriction would be lifted if the TPS cures the violations, and Board staff could recommend further Board action against the TPS's license if the violations continue. These subsections are intended to enable Board staff to review TPS marketing materials for compliance with existing standards and to protect consumers from marketing practices that violate those standards.

N.J.A.C. 14:4-7.5 sets forth the requirements that a TPS must follow if it requires its customers to meet income, security deposit, and/or credit requirements.

N.J.A.C. 14:4-7.6 sets forth the requirements for contracts between a TPS and a customer. The Board proposes to amend subsection (k) to clarify wording about the requirement that a TPS send a notice to customers prior to the expiration of a fixed price element of the contract and to require that a TPS provide written notice to its customers who have contracts that contain a fixed rate element and a variable rate element with certain prescribed information, including the difference between a fixed rate and a variable rate and, for residential customers, the variable rate billed by the TPS for the past three months, allowing customers to make a more informed decision when choosing or transitioning to fluctuating monthly rates.

N.J.A.C. 14:4-7.6A sets forth TPS contract summary requirements. The Board proposes to amend paragraph (a)7 to require the TPS contract summary to include, for residential customers, the variable rates billed by the TPS for the three preceding months.

N.J.A.C. 14:4-7.7 sets forth requirements for bills to TPS customers.

N.J.A.C. 14:4-7.8 sets forth provisions restricting the disclosure of customer information.

N.J.A.C. 14:4-7.9 sets forth the procedure for TPS customer complaints.

N.J.A.C. 14:4-7.10 sets forth the procedure for termination of a residential contract by a TPS.

N.J.A.C. 14:4-7.10A sets forth the procedure for the transfer of a residential contract by a TPS.

N.J.A.C. 14:4-7.11 sets forth the requirements for the presentation of New Jersey Sales Tax.

N.J.A.C. 14:4-7.12 sets forth the requirements for rates that are characterized as fixed or firm.

N.J.A.C. 14:4-7.13 sets forth the penalties for violating this subchapter.

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

Social Impact

The readoption of N.J.A.C. 14:4 with amendments and new rules will have a beneficial social impact by continuing to ensure that New Jersey energy customers receive the benefits of a competitive marketplace.

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

The readoption of the PUHC rules will have a positive social impact. There is a potential for economic harm to an electric or gas public utility when it is acquired by a public utility holding company, as described below in the Economic Impact statement. These rules will protect the integrity of such electric or gas public utilities and will, thus, ensure that investors and ratepayers can rely on and have continued confidence in New Jersey electric or gas public utilities. The proposed amendments also clarify the rules and make reporting requirements more specific, thus reducing the potential burden on the regulated community while preserving essential notice to the Board.

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

Economic Impact

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

The readoption of the affiliate relations rules will have an overall positive economic benefit. The costs incurred by electric and gas utilities in complying with the affiliate relations rules should be minimal and mainly will be related to recordkeeping and reporting. Furthermore, the electric and gas utilities have the opportunity to seek recovery approval from the Board for those costs. Most importantly, the rules help to prevent unfair competitive advantages such as cross-subsidization, or unfair advantageous practices that benefit electric and gas utilities' or public

utility holding companies' related competitive business segments in competitive markets.

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

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

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

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

Federal Standards Statement

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

The following subchapters are not promulgated pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law, or a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements: Subchapter 2, Energy Anti-Slamming; Subchapter 4, Public Utility Holding Company Standards; Subchapter 5, Energy Licensing and Registration; Subchapter 6, Government Energy Aggregation Programs; and Subchapter 7, Retail Choice Consumer Protection. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., do not

require a Federal standards analysis for these subchapters of the rules proposed for readoption with amendments and new rules.

The affiliate relations rules at Subchapter 3 are not promulgated pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law or a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. The Federal Energy Policy Act of 2005 governs affiliate transactions, service agreements, and access to the books and records of public utility holding companies. While the Board's affiliate relations rules are more specific than the Federal provisions, neither is clearly more stringent than the other. The Federal law provides states with broad power to prevent cross-subsidization and to issue "such rules and regulations as are necessary or appropriate for the protection of utility consumers." To the extent that the specificity of the Board's rules may render them more stringent, the Board believes such stringency is justified by the potential for abuse of a public utility by a holding company or other affiliate.

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and new rules will impose minimal recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees, is independently owned and operated, and not dominant in its field.

Some of the TPSs affected by the rules proposed for readoption with amendments and new rules of the anti-slamming rules may qualify as small businesses. The rules proposed for readoption with amendments and new rules will impose some recordkeeping, reporting, and other compliance requirements on these small businesses, in that the rules will continue the requirement that TPSs use certain procedures for switching customers, and for verifying the accuracy of customer switches, as discussed in the Summary. The proposed amendments will slightly decrease reporting requirements and slightly increase the level of detail required in third-party verifications. In addition, the option for TPSs to perform their own verifications will likely reduce the compliance burden. Therefore, the proposed amendments taken together will not increase existing compliance requirements overall. The compliance requirements of these rules proposed for readoption with amendments and new rules are justified by the magnitude of the slamming problem that occurred prior to the adoption of anti-slamming rules. Furthermore, unauthorized switching is no less of a problem when perpetrated by a small TPS than a large one. Therefore, the Board has not provided special provisions for small businesses.

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

The licensing and registration rules proposed for readoption require TPSs, energy agents, private aggregators, and energy consultants to be licensed or registered. Some of these entities are small businesses. These entities are required to keep summary records in a form accessible to Board staff. Both electric power and gas suppliers must supply their

previous year's New Jersey energy sales for an initial application and with annual information update form filings. Any entity that wishes to market to residential customers must file a copy of its standard contract with Board staff. It is not anticipated that any entity would find it necessary to engage any professional services to comply with these rules. These rules proposed for readoption with amendments and new rules are important to ensure that energy suppliers are responsible and financially sound, and the rules proposed for readoption with amendments and new rules would have the same impact upon all entities that enter the New Jersey market. Accordingly, the Board has not provided special provisions applicable to small businesses.

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

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

Housing Affordability Impact Analysis

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

Smart Growth Development Impact

The rules proposed for readoption with amendments and new rules will have no impact on smart growth in New Jersey because the scope of the rules is limited to addressing the regulation of the competitive energy market. There is an extreme unlikelihood that the rules proposed for readoption with amendments and new rules would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan, because the competitive energy market does not affect the location of housing construction, and has only a slight indirect impact on the housing market. Any such impact will reduce the cost of energy and will apply uniformly Statewide.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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

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

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

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

14:4-1.1 Applicability and scope
(a)-(b) (No change.)

(c) If an electric public utility, gas public utility, or a public utility holding company is acquired by an entity other than a “public utility holding company,” as defined at N.J.A.C. 14:4-3.2, that acquisition shall not change or affect the Board’s jurisdiction over the acquired public utility or the requirement that the public utility’s competitive business segments, the public utility holding company, and its competitive business segments comply with all applicable New Jersey statutes, rules, and regulations. For the purposes of this chapter, an entity that receives Board approval to directly or indirectly acquire control of a gas or electric public utility or its holding company, pursuant to N.J.S.A. 48:2-51.1 and 48:3-10 and N.J.A.C. 14:1-5.14 and the acquiring entity’s related competitive business segments, will be subject to the same requirements and regulations as a public utility holding company and its related competitive business segments.

Recodify existing (c)-(e) as (d)-(f) (No change in text.)

14:4-1.2 Definitions

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

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

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

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

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

SUBCHAPTER 2. ENERGY ANTI-SLAMMING

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

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

(d) When an LDC receives a change order from a TPS to switch the energy supplier of a customer who has a preferred supplier freeze in place pursuant to N.J.A.C. 14:4-2.6A, and the change order from the TPS is not to switch the customer’s electric generation service provider to BGS or gas supply service provider to BGSS pursuant to N.J.A.C. 14:4-2.6A(n), the LDC shall:

1. Reject the enrollment through an Electronic Data Interchange (EDI) transaction that indicates that the enrollment was rejected because the customer has a preferred supplier freeze in place; and

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

i. Be sent, in writing, through the U.S. mail, within three business days after the LDC receives the change order, or if a customer

previously opted out of printed communications from the LDC, through protected electronic communication;

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

iii. Notify the customer how to contact the LDC should the customer wish to lift the preferred supplier freeze and authorize the switch.

(e) The provisions at (d) above shall apply to all customer enrollment or drop requests that are received by an LDC on or after (six months after the effective date of this rulemaking).

Recodify existing (d)-(e) as (f)-(g) (No change in text.)

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

1.-3. (No change.)

4. The provisions [in (f)1 through] at (h)1, 2, and 3 above shall apply to all customer enrollment or drop requests that are received by an LDC on or after January 17, 2018.

14:4-2.6A Preferred supplier freeze

(a) The provisions in this section shall apply after (six months after the effective date of this rulemaking).

(b) A customer may request that their LDC implement or lift a preferred supplier freeze for the provision of electric generation or gas supply service.

(c) An LDC may only implement a preferred supplier freeze for the customer’s current supplier.

(d) A customer’s authorization to implement or lift a preferred supplier freeze shall be submitted to and executed by their LDC without the influence of a TPS, an agent operating on behalf of a TPS, or an LDC. A TPS or an agent operating on behalf of a TPS may not request the implementation or lifting of a preferred supplier freeze on behalf of a customer.

(e) An LDC that receives a request from a customer to implement or lift a preferred supplier freeze shall implement or lift the freeze within one business day of receiving the request and shall notify the customer, in writing, that the preferred supplier freeze has been implemented or lifted within two business days of receiving the request. This notice shall be sent using U.S. mail, or if a customer previously opted out of printed communications from the LDC, by protected electronic communication.

(f) An LDC shall not switch a customer’s electric generation service or gas supply service provider if the customer has a preferred supplier freeze in place, unless the LDC receives a change order from a TPS to switch a customer’s electric generation service provider to BGS or gas supply service provider to BGSS, or unless the change is in accordance with (m) or (n) below.

(g) A customer’s authorization to implement or lift a preferred supplier freeze does not satisfy the requirement for a separate verified authorization to make a switch to a TPS. Therefore, if a customer has a preferred supplier freeze in effect and wishes to switch suppliers, the customer shall provide the LDC with authorization to lift the preferred supplier freeze, and:

1. If the customer wishes to switch to a TPS, the TPS shall obtain authorization for the switch and shall submit a change order to the LDC in accordance with N.J.A.C. 14:4-2.3; or

2. If the customer wishes to switch from a TPS to an LDC, the customer shall provide the LDC with authorization for the switch.

(h) When an LDC receives a change order from a TPS to switch a customer’s electric generation service or gas supply service provider to a TPS and the customer has a preferred supplier freeze in place, the LDC shall reject the enrollment and notify the TPS of the reason for the rejection through an EDI transaction.

(i) All LDCs shall permit preferred supplier freezes on a nondiscriminatory basis to all customers, regardless of the customer’s electric and gas supplier selections.

(j) All LDCs and TPSs shall treat customers on a nondiscriminatory basis, regardless of whether or not the customer opts to implement a preferred supplier freeze. Suppliers shall not offer different rates or services to a customer based on whether or not the customer opts to implement a preferred supplier freeze.

(k) Any information provided to customers pertaining to preferred supplier freezes, either verbally or in writing, shall clearly set forth the following:

1. A clear and neutral statement that the customer may opt to freeze either a TPS or the LDC as their supplier;

2. An explanation, in clear and neutral language, of what a preferred supplier freeze is and what services may be subject to a freeze. This should include an explanation that the customer will be unable to make a change in their supplier selection unless the customer contacts the LDC to lift the preferred supplier freeze;

3. A description of the specific procedures necessary to implement or lift a preferred supplier freeze, including that the customer must request to implement or lift the preferred supplier freeze directly from the LDC. The description should include an explanation that these steps are in addition to the verification rules at N.J.A.C. 14:4-2.3;

4. An explanation that a customer may only authorize a preferred supplier freeze for the customer's current supplier;

5. An explanation that separate authorizations are required to implement and/or lift a preferred electric supplier freeze and a preferred gas supplier freeze, and that a customer may opt to freeze one, both, or neither of these suppliers;

6. An explanation that having a preferred electric supplier freeze or a preferred gas supplier freeze in place shall not prohibit a switch to a new TPS if the customer's preferred supplier merges with, or has its customers assumed by, another TPS. This explanation shall state that if the customer's preferred supplier merges with, or has its customers assumed by another supplier, the customer will be switched to the new TPS and a preferred supplier freeze shall be implemented with the new TPS; and

7. An explanation that having a preferred electric supplier freeze or a preferred gas supplier freeze in place shall not prohibit a switch to BGS or BGSS if the customer's preferred TPS declares bankruptcy or is otherwise unable to serve the customer. This explanation shall state that if a customer's preferred supplier declares bankruptcy, or is otherwise unable to serve the customer, the preferred supplier freeze will be lifted and the customer will be switched to BGS or BGSS. A preferred supplier freeze shall not be implemented with the BGS or BGSS provider under these circumstances without authorization by the customer.

(l) An LDC shall not implement or lift a preferred supplier freeze unless:

1. The LDC implementing or lifting a preferred supplier freeze has confirmed the customer's request to impose or lift the freeze in accordance with one of the following procedures:

i. The LDC has obtained the customer's written or electronically signed authorization, which must be on a form with sufficient size and readable type to be clearly legible; or

ii. The LDC has obtained the customer's verbal authorization stating the customer's intent to impose or lift a preferred supplier freeze. For this purpose, the LDC shall use the same methods that it presently uses to verify that an individual is the customer of record or is authorized to make changes to the utility account; and

2. The LDC implementing or lifting a preferred supplier freeze has confirmed:

i. The customer's name, address, and account number;

ii. The type of preferred supplier freeze the customer would like to change (either preferred electric supplier freeze or gas supplier freeze or both) and whether the customer is requesting to implement or lift the preferred supplier freeze; and

iii. If the customer is requesting to implement a freeze, that the customer understands that he or she will be unable to switch suppliers for that particular service unless the customer lifts the freeze.

(m) An LDC shall temporarily lift a preferred supplier freeze if the LDC is notified that the customer's preferred supplier has merged

with, or has had its customers assumed by, another TPS. In these cases, the LDC shall remove the preferred supplier freeze from the affected customer accounts for the sole purpose of transferring these customer accounts to the new TPS. The LDC shall subsequently implement the preferred supplier freeze with the new TPS for each of these customer accounts within three days of the transfer to the new TPS.

(n) An LDC shall lift a preferred supplier freeze if the customer's preferred supplier declares bankruptcy or is otherwise unable to continue to serve its customers. In these cases, the LDC shall remove the preferred supplier freeze from the affected customer accounts and transfer these customer accounts to BGS or BGSS. In addition, the LDC shall send a notice to the affected customers. This notice shall be sent using U.S. mail, or if a customer previously opted out of printed communications from the LDC, through protected electronic communication, and it shall notify the customers, in writing, that:

1. The customer's preferred supplier is unable to serve the customer;

2. The reason why the customer's preferred supplier is unable to serve the customer;

3. The preferred supplier freeze has been lifted; and

4. The customer has been switched to BGS or BGSS.

SUBCHAPTER 3. AFFILIATE RELATIONS

14:4-3.1 Scope

(a) This subchapter shall apply as follows:

1. N.J.A.C. 14:4-3.3 [through], **3.4, and 3.5** set forth standards of conduct applicable to transactions, **interactions, and relationships** between an electric public utility or gas public utility, including a related competitive business segment of an electric or gas public utility, and a related competitive business segment of the electric or gas public utility holding company providing or offering competitive services to retail customers in New Jersey or the public utility holding company itself providing or offering competitive services to retail customers in New Jersey;

2.-3. (No change.)

(b) (No change.)

14:4-3.2 Definitions

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

...

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

...

14:4-3.7 Regulatory oversight

(a) (No change.)

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

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

i. (No change)

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

14:4-3.9 Violations and penalties

(a) (No change.)

(b) If, as a result of an audit conducted pursuant to N.J.A.C. 14:4-3.7(e) [through], **(f), and (g)** or by any other means, the Board determines, after providing the electric and/or gas public utility notice of a public hearing

and an opportunity to be heard, that an electric and/or gas public utility has committed violations of N.J.A.C. 14:4-3.3, 3.4, 3.5, 3.7, or 3.8, which are substantial in nature so as to result in unfair [competetive] **competitive** advantages for an electric or gas public utility, the Board is authorized to take some or all of the following actions:

1.-4. (No change.)

APPENDIX

SECTION 1. (No change.)

SECTION 2. Petition Filing and Confidentiality

1. Required Petition Contents

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

i.-viii. (No change.)

ix. The derivation of the proposed charge(s) for each competitive service offering, which shall include calculations, working papers, statistical data, and other information utilized. Said proposed charge(s) should exceed the fully allocated current cost of providing the proposed competitive service offering(s), which shall include, **but not be limited to**, the current cost of all equipment, vehicles, labor, fringe benefits, and overheads and administration expenses, other assets utilized and costs incurred, directly or indirectly, all current promotional, advertising and marketing costs, and the current fully-loaded labor cost of management involved with this proposed competitive service offering(s);

x.-xi. (No change.)

xii. A comparison of **the** proposed **EDC/GDC hourly** charges [with those of other EDC/GDCs and independent contractors for] **offering, including service charges and other charges, with those of the following other purveyors of** the same type(s) of service [and specifically provide service charges for the following]:

1.-5. (No change.)

xiii.-xix (No change.)

2. (No change.)

SUBCHAPTER 4. PUBLIC UTILITY HOLDING COMPANY (PUHC) STANDARDS

14:4-4.4 Access to information

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

(m) The financial and operational statements submitted with annual reports of public utilities required to be filed with the Board pursuant to N.J.A.C. 14:3-6.3, such as information regarding the financial and operational positions of the public utilities, including, but not limited to, the public utilities' detailed balance sheets, income statements, statements of accumulated comprehensive income and hedging activities, statements of cash flow, long-term debt, short-term debt, credit facilities, and statements of retained earnings, shall be treated as public for both privately held and publicly held public utilities.

(n) All information provided to the Board and Board staff pursuant to this section and N.J.A.C. 14:3-6.3 will be treated as public. Any confidential information provided to the Board and Board staff shall be submitted in accordance with the procedures set forth at N.J.A.C. 14:1-12.

SUBCHAPTER 5. ENERGY LICENSING AND REGISTRATION

14:4-5.1 Scope; general provisions

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

(h) To obtain an electric power supplier or gas supplier license, or obtain an energy agent (including an energy consultant) or private aggregator registration, a person shall:

1.-2. (No change.)

3. If the application is for an electric power supplier license, gas supplier license, or energy consultant registration, provide [a] surety bonds that meet[s] the requirements at N.J.A.C. 14:4-5.4 and 5.11, as applicable.

(i) (No change.)

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

New Jersey Board of Public Utilities

ATTN: Division of Audits/Licensing

44 South Clinton Avenue, 9th Floor

PO Box 350

Trenton, New Jersey 08625-0350

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

See the BPU website for further contact information regarding licensing.

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

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

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

(f) Within 60 days of filing an initial application, but no later than two weeks prior to the approval date of the application, the applicant shall submit [a] **the surety bond(s) [for] in** the amount of \$250,000 for [an] **each** electric power supplier license or gas supplier license. **The surety bond(s) shall insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to customers to deliver electric generation service or gas supply service.**

(g) (No change.)

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

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

(j) (No change.)

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

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

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

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

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

1. (No change.)

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

3. (No change.)

(j) (No change.)

(k) At the request of a licensee, a surety bond, as required pursuant to N.J.A.C. 14:4-5.4(f), may be returned when the associated electric power supplier license or gas supplier license has expired or been withdrawn, or in another applicable situation as deemed acceptable by Board staff, provided the following conditions are met:

1. The licensee shall provide Board staff with a business tax clearance certificate issued by the New Jersey Department of the Treasury; and

2. There shall be no outstanding in-State customer complaints or investigations against the licensee.

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

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

(f) If Board staff notifies an LDC, in writing, that a supplier or marketer that is serving customers in the LDC's service territory does not have a valid license [under] **pursuant to** this subchapter, or does not have the required surety bond(s), the LDC shall, within one business day after said notice, stop doing business with the supplier or marketer, except pursuant to any specific instructions of Board staff. This subsection shall apply regardless of whether the person has never had a license; a license has expired; or a license has been denied, suspended, or revoked.

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

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

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

	Electric Power Supplier License	Gas Supplier License	Energy Agent, Private Aggregator, and/or Energy Consultant Registration
Nonrefundable Initial Application Fee	[\$250.00] \$350.00	[\$250.00] \$350.00	[\$500.00] \$750.00
Initial License Fee refunded if license is denied	[\$1,000.00] \$1,500	[\$800.00] \$1,200	\$0
Nonrefundable Annual Information Update Fee	[\$500.00] \$750.00	[\$400.00] \$600.00	[\$200.00] \$300.00

(b) If an applicant applies for more than one license, the applicant shall submit the application fees for both licenses. For example, the **total** application fee **when applying** for both an electric power supplier license and a gas supplier license would be [\$2,300] **\$3,400**. Similarly, an applicant that applies for more than one license shall post a **separate** surety bond for [the sum of the applicable amounts] **each license as** required at N.J.A.C. 14:4-5.4(f). For registrants, the application fee remains the same if an applicant applies for one, two, or all three registrations. For example, an initial fee for an Energy Agent would be [\$500.00] **\$750.00** and the initial fee for an Energy Agent and Energy Consultant would be [\$500.00] **\$750.00** as well.

SUBCHAPTER 6. GOVERNMENT ENERGY AGGREGATION PROGRAMS

14:4-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. In addition, definitions set forth at N.J.A.C. 14:4-1.2, [and] 14:3-1.1, and **14:4-2.2** shall apply to this subchapter, unless the context clearly indicates otherwise.

...
"Option 1 government-private energy aggregation program" means a government-private energy aggregation program where written notification to customers of the program, and information regarding how to participate or to decline to participate, is sent to customers by the LDC prior to the advertisement for the receipt of bids and the selection of the TPS(s).

"Option 2 government-private energy aggregation program" means a government-private energy aggregation program where written notification of the program, and information regarding how to participate or to decline to participate, is sent to customers by the lead agency or each participating municipality after the selection of the TPS(s).

...

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

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

1.-5. (No change.)

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

7.-10. (No change.)

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

14:4-5.10 LDC responsibilities

(a) (No change.)

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

1.-2. (No change.)

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

14:4-5.12 Fees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recodify existing (e)-(f) as **(f)-(g)** (No change in text.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h)-(i) (No change.)

(j) All documents submitted to the Board and Rate Counsel in compliance with this subchapter, shall be submitted as follows:

1. One hard copy of the documents shall be submitted to each of the following people: the Secretary of the Board, the Director of the Division of [Energy] **Revenue and Rates**, and the Director of the Division of Customer Assistance. These copies shall be sent to the following mailing address: Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, PO Box 350, Trenton, NJ 08625-0350;

2.-4. (No change.)

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

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

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

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

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

2.-3. (No change.)

(e)-(j) (No change.)

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

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

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

(1) (No change.)

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

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

(4) Do not have a preferred supplier freeze in place;

ii.-iii. (No change.)

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

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

(1) (No change.)

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

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

(4) Do not have a preferred supplier freeze in place;

ii.-iii. (No change.)

(l)-(r) (No change.)

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

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

(g) The LDC shall provide the lead agency with the following information as required [under] **pursuant to** (f) above:

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

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

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

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

(3) Do not have a preferred supplier freeze in place;

ii.-iii. (No change.)

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

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

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

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

(3) Do not have a preferred supplier freeze in place;

ii.-iii. (No change.)

(h)-(t) (No change.)

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

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

SUBCHAPTER 7. RETAIL CHOICE CONSUMER PROTECTION

14:4-7.2 Definitions

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

... **“Billing error” means a charge to a customer in excess of that set forth in the TPS contract.**

...

14:4-7.3 Advertising standards

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

(f) A TPS shall provide advertising materials to Board staff for review upon request.

(g) Board staff may direct a TPS to cease advertising practices within the State for up to 60 days based upon a determination that the TPS has violated any provision of this section. If Board staff determines that the TPS has cured the violations, the temporary advertising restriction shall be lifted. If a TPS fails to cure violations alleged pursuant to this section, Board staff may recommend that the Board take action pursuant to N.J.S.A. 48:3-81.

14:4-7.4 Marketing standards

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

(p) A TPS shall provide marketing materials for Board staff review upon request.

(q) Board staff may direct a TPS to cease marketing practices within the State for up to 60 days based upon a determination that the TPS has violated any provision of this section. If Board staff determines that the TPS has cured the violations, the temporary marketing restriction shall be lifted. If a TPS fails to cure violations alleged pursuant to this section, Board staff may recommend that the Board take action pursuant to N.J.S.A. 48:3-81.

14:4-7.6 Contracts

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

(k) [The] **Where a TPS contract contains a fixed price element, the TPS shall provide notice to the customer at least 30 days prior to the [end] expiration of the fixed price for electric generation service or gas supply service [contract], informing the customer of the date upon which the fixed price element of the service contract [term] ends. Where a TPS contract contains both a fixed price element and a variable rate element, including where a TPS contract with a fixed rate defaults to a variable rate at the end of the initial fixed rate contract term, such**

notice shall also provide an explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public. For residential customers with a TPS contract that contains fixed, variable, or both fixed and variable rate elements, the TPS shall include the historical variable rate billed by the TPS for the three preceding months. When no historical data exists, the TPS shall state that no historical data is available.

(l) (No change.)

14:4-7.6A TPS contract summaries

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

1.-6. (No change.)

7. Provide a brief explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public, including an explanation on how weather fluctuations may affect the price of variable rate contracts[.]; and, for residential customers, the **historical variable rates billed by the TPS for the three preceding months. When no historical data exists, the TPS shall state that no historical data is available.**

8.-14. (No change.)

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

14:4-7.14 Billing errors

(a) When a TPS becomes aware of an incident that causes the TPS to incorrectly bill 10 or more of its customers over a period of 30 days or less, the TPS shall submit a written report to the Board of Public Utilities. This report shall:

1. Be sent within 10 business days of the date the TPS became aware of the incident;

2. Be sent to the Board Secretary with copies sent to the Director of the Division of Revenue and Rates and the Director of Customer Assistance, and if the customer is on utility consolidated billing, the customer’s electric or gas public utility;

3. Provide details regarding the impact of the error on the customer bills;

4. Detail the event that caused the billing error; and

5. Detail the TPS’s plans to correct the billing error.

(b) A TPS shall pay a residential customer interest at the rate provided for at N.J.A.C. 14:3-3.5(d) on any overpayment made by the customer due to a billing error, unless the overpayment is fully refunded or credited to the customer’s account within two billing cycles after the billing error first appeared on the customer bill. The period of time constituting two billing cycles shall be determined by the billing practices of the public utility in place at the time the TPS becomes aware of the error. In no event shall such period be considered to be less than 60 days.