

3. Inform the patient and/or the patient's representative, in writing, in specific and readily understood terms, about the risks and benefits of the vaccine, and provide the patient with a vaccine information sheet published by the CDC; and

4. Obtain a signed informed consent form, which complies with the requirements at (f) below, from the patient or the patient's representative, which shall be maintained in the patient's record if the vaccine was administered at the dental treatment setting. The signed informed consent forms shall be maintained in either hard copy or electronic form, as provided at (l) below.

(f) The informed consent form provided by a dentist to a patient in the dental treatment setting shall include a check-off box that authorizes the dentist to send a copy of the patient's vaccine documentation to the patient's primary care provider and another check-off box that prohibits the dentist from sending a copy of the patient's vaccine documentation to the patient's primary care provider. The informed consent form shall specify that a patient's failure to select one of the two check-off boxes shall result in the patient's vaccine documentation being sent to the patient's primary care provider, if identified.

(g) The dentist shall maintain documentation at the dental treatment setting of all vaccines administered by the dentist at the dental treatment setting. Such documentation shall be retained in either hard copy or electronic form, consistent with (l) below, and shall be made available for inspection by the Board. Such documentation shall include:

1. The patient's name, address, telephone number, date of birth, allergies, and gender;
2. The vaccine administered, the manufacturer, expiration date, lot number, site of administration, and dose administered;
3. The date and location of vaccine administration;
4. The name and address of the dentist administering the dose; and
5. The name and address of the patient's primary care provider, if provided.

(h) The dentist shall document in detail, and immediately report, all clinically significant adverse events to the primary care provider, if identified and permitted, consistent with (f) above, for a vaccine administered in the dental treatment setting. The dentist shall, within 72 hours, report such events to the appropriate government reporting system, in addition to complying with N.J.A.C. 13:30-8.8.

(i) The dentist shall provide a copy of all patient-related documentation and a copy of the signed informed consent form to each patient receiving a vaccine in a dental treatment setting, or to the patient's representative.

(j) The dentist shall report a vaccine administered to a patient by the dentist in a dental treatment setting to the New Jersey Immunization Information System, established pursuant to N.J.S.A. 26:4-134, as required pursuant to N.J.A.C. 8:57-3.16, for inclusion in the patient's registry.

(k) The dentist shall comply with the Vaccine Storage and Handling Toolkit of the CDC, as amended, incorporated herein by reference, available at https://www.cdc.gov/vaccines/hcp/storage-handling/?CDC_AAref_Val=https://www.cdc.gov/vaccines/hcp/admin/storage/toolkit/index.html.

(l) All documentation and records of vaccines administered in a dental treatment setting, that are required to be maintained by this section, shall be maintained in accordance with N.J.A.C. 13:30-8.7.

(m) The dentist shall not delegate the administration of vaccines.

(n) For vaccines administered at an emergency vaccination site, a dentist shall comply with the recordkeeping, informed consent, and reporting requirements of the emergency vaccination site.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

ENERGY COMPETITION

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

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

Proposed: February 2, 2026, at 58 N.J.R. 980(a).

Adopted: August 12, 2026, by the New Jersey Board of Public Utilities, Benjamin Hertz-Shargel, President, Christine Guhl-Sadovy, Michael Bange, Joseph Coviello, and Emma Rebhorn, Commissioners.

Filed: August 14, 2026, as R.2026 d.102, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-13; 48:2-16, 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.

BPU Docket Number: EX25040201.

Effective Dates: August 14, 2026, Readoption;
September 21, 2026, Amendments and New Rules.

Expiration Date: August 14, 2033.

Summary of Public Comments and Agency Responses:

The Board of Public Utilities ("Board" or "BPU") received written comments on the notice of proposal from: Jersey Central Power & Light Company (JCP&L); New Jersey Division of Rate Counsel (Rate Counsel); New Jersey Utilities Association (NJUA); Retail Energy Supply Association (RESA); and SJI Utilities, Inc. (SIJU).

General Comments

1. COMMENT: RESA supported the Board's decision to include, in its draft rule proposal, various rule changes RESA proposed in its comments to this proceeding.

RESPONSE: The Board thanks RESA for its comment.

2. COMMENT: RESA recommended that the Board allow third-party suppliers (TPSs) six months from the date that the rule changes are finalized to comply, since changes to TPS processes and systems will be necessary. As the rule proposal is currently written, only the Preferred Supplier Freeze (PSF) requirements have an effective date that is six months after the rules are finalized.

RESPONSE: The Board believes that the proposed modifications will enhance this chapter and should be implemented in a timely fashion. RESA requested a blanket delay of all the rule modifications and did not identify any specific rule modifications that it believes TPSs may have difficulty implementing on a timely basis. The Board does not believe that a blanket delay is necessary or appropriate. Should any TPS experience significant difficulties in implementing a specific aspect of the proposed rules, the TPS may file a waiver request for the Board's consideration.

3. COMMENT: Rate Counsel noted that it is important for the Board to observe and analyze whether customers, especially residential customers, are receiving positive benefits associated with a competitive marketplace. Rate Counsel presented data from the United States Energy Information Administration comparing the average residential price-per-kWh for TPS service to the average residential price for local distribution company (LDC) service from 2010 through 2024. Rate Counsel noted that while the two types of providers closely mirrored each other's average price for 2010 through 2012, since that time, the average price for residential customers of TPSs has been noticeably higher, with the gap between TPSs and LDCs becoming increasingly pronounced since 2021. Rate Counsel opined that a retail customer may choose a competitive electricity option for any number of reasons, not solely based on cost, however, it is a significant variable that must be openly disclosed. Thus, Rate Counsel concluded that, while it is important to allow residential customers the option to shop for competitive electricity and natural gas supply, it is also critical that residential customers who choose not to

switch to a competitive supplier are not, by design or by inadvertence, transferred to a TPS.

RESPONSE: The Board thanks Rate Counsel for the comment. The Board and Board staff will continue to observe and analyze the impact of a competitive marketplace on customers pursuant to the Electric Discount and Energy Competition Act (EDECA).

4. COMMENT: Rate Counsel urged the Board to more closely analyze the rate impact of the rulemaking. Rate Counsel stated that the rulemaking places additional administrative responsibilities on each electric distribution company (EDC), including requirements to notify customers of change orders, track notices of PSFs, and provide communications and notifications regarding these freezes. Rate Counsel noted that during the stakeholder comment period, at least one EDC stated that there are costs associated with the proposed changes and the EDC recommended that the rules indicate that all costs incurred to implement the changes be subject to deferred accounting and recovery in a future rate case. Rate Counsel asserted that the Board should analyze these costs versus the benefits of the rulemaking in its Economic Impact statement. Allowing the utilities to defer these costs for inclusion in a future base rate case to be collected in rates applicable to all distribution customers could encourage unnecessary spending.

RESPONSE: The Board agrees that the EDCs' costs associated with the new requirements should not be carved out and given deferred accounting treatment. Each utility is able to file a base rate case when it cannot earn a fair rate of return, at which time, the utility's complete financial condition can be evaluated.

Subchapter 1. General Provisions and Definitions

N.J.A.C. 14:4-1.1 Applicability and Scope

5. COMMENT: NJUA commented that the proposed new language at N.J.A.C. 14:4-1.1(c) would effectively change the definition of public utility holding company (PUHC). NJUA was specifically concerned that this new language would subject private institutional investors that directly or indirectly acquire control of a gas or electric public utility to the regulatory requirements that apply to PUHCs. NJUA and its member companies are concerned that expanding the applicability of PUHC regulations could deter private investment in utilities and in energy infrastructure more broadly at a time where such investment is critical to addressing energy supply and affordability problems. NJUA noted its support for the Sherrill Administration's focus on permitting reform to expedite critical energy projects by removing regulatory obstacles and barriers to entry and commented that the proposed new language would subject potential private investors to new burdensome regulations. NJUA suggested that applying PUHC regulations to potential investors would be antithetical to the State's goal to bring new energy investment to New Jersey. Finally, NJUA commented that the goal of the Board in applying PUHC regulations to private institutional investors is not clear to the utilities and NJUA questioned whether the benefits of this change would outweigh potential drawbacks. NJUA urged the Board to remove the new language from the proposed rules. In the alternative, NJUA requested that the Board indicate the problem it aims to solve with the new language and provide a cost-benefit analysis weighing the Board's perceived benefits of these provisions against their "inevitable" costs.

6. COMMENT: SJIU commented that expanding the Board's jurisdiction to regulate investment entities is not necessary and would deter energy investment in New Jersey. SJIU suggested that the State should be focused on addressing affordability issues and clean energy goals and should refrain from issuing rules that impose new or increased regulatory burdens on investors. SJIU further contended that the Board has existing authority to protect utilities and their customers from potential adverse impacts resulting from acquisitions pursuant to N.J.S.A. 48:2-51.1.a. SJIU noted that the proposed amendments expand the scope of the Board's PUHC requirements by subjecting additional entities to onerous reporting, recordkeeping, and access to data obligations, and by imposing limits on non-utility holdings. SJIU further contended that the Board is not statutorily permitted to extend its regulatory reach to entities that are not PUHCs and is preempted by Federal law from regulating private equity funds and other Federally regulated entities. SJIU additionally expressed concern that the proposed amendments may result

in violations of the Dormant Commerce Clause of the U.S. Constitution and may constitute an uncompensated regulatory taking pursuant to the Fifth and Fourteenth Amendments of the U.S. Constitution.

RESPONSE TO COMMENTS 5 AND 6: The Board acknowledges the concerns raised by the commenters regarding the proposed amendments to N.J.A.C. 14:4-1.1 that would subject any entity that acquired a public utility pursuant to N.J.S.A. 48:2-51.1 and 48:3-10 and N.J.A.C. 14:1-5.14 to the requirements of this chapter. The Board acknowledges that a stakeholder discussion is necessary to achieve clarity on the concerns expressed regarding continued utility investment and the Board's obligations to achieving adequate ratepayer protections while recognizing the complexities of the evolving structure of public utilities and the need to ensure that ratepayers, the utility, and the integrity of competitive marketplaces are protected from the same potential issues that may arise within a traditional PUHC ownership structure. The Board believes these complexities require more robust stakeholder engagement in order to properly balance the various interests. As a result, the Board has elected not to adopt the proposed final sentence at N.J.A.C. 14:4-1.1(c). The Board intends to further evaluate these important issues as part of future Board proceedings.

7. COMMENT: Rate Counsel did not oppose the proposed change to N.J.A.C. 14:4-1.1.

RESPONSE: The Board thanks Rate Counsel for its comment.

N.J.A.C. 14:4-1.2 Definitions

8. COMMENT: Rate Counsel recommended that the definition of an "energy-related service" be amended to read "including, but not limited to, the installation of demand side management measures (including necessary health and safety measures and/or housing repairs)..." Since the Board's "competition rules" were first adopted, there has been an expansion in the understanding of what investments might be necessary to facilitate, or perhaps even make possible at all, the installation of "demand side management measures" at an end user's premises. These necessary investments include health and safety measures, as well as modest housing repairs. These supplemental investments are regarded as frequently being necessary for demand side management measures to be pursued. A similar amendment should be made to the definition of "gas related service."

RESPONSE: Rate Counsel has not addressed how its proposed changes to the definitions of these terms would affect specific rule provisions that incorporate these terms, nor indicated why these affected rule provisions should be changed. The Board is unable to evaluate the intent or impact of such suggested changes and, therefore, declines to implement the suggested changes at this time.

9. COMMENT: Rate Counsel recommended that the Board clearly define the terms "fixed rate" or "fixed price" contract and limit the use of these terms by TPSs in advertising and contract materials to instances where they explicitly meet the definition. TPS contracts that contain a "fixed rate element and a variable rate element" should only be allowed to be described as "variable" to avoid any intentional or non-intentional misrepresentations to customers. Contracts with both a fixed and variable element should clearly indicate in all advertising material and contracts language that they are variable contracts with pricing subject to change pursuant to the terms therein. This is because, from the consumer perspective, this is a binary choice between fixed and variable-any contract with a variable element is, in fact, not fixed and should indicate as such. Rate Counsel recommended that this section, as well as N.J.A.C. 14:4-7.12, be updated to include these additional consumer protections.

RESPONSE: While the rules do not contain definitions of the terms "fixed rate" or "fixed price" contract as recommended by Rate Counsel, existing provisions at N.J.A.C. 14:4-7.6A and 7.12 appropriately ensure that TPSs provide clarity to customers regarding the type of contract being offered. Further, proposed amendments at N.J.A.C. 14:4-7.6 are intended to ensure additional clarity for TPS contracts that include both fixed price and variable rate elements, including a requirement that the TPS provide an easily understandable explanation of the difference between a fixed rate and variable rate. As such, the Board declines to define the terms "fixed rate" or "fixed price" at this time.

Subchapter 2. Energy Anti-Slamming

N.J.A.C. 14:4-2.6 LDC Notice to Customer of Change Order

10. COMMENT: Rate Counsel endorsed the proposed additional notice provisions at new N.J.A.C. 14:4-2.6(d) and (e) because it is critical to ensure that residential customers are not switched to energy suppliers without express authorization.

RESPONSE: The Board thanks Rate Counsel for its comment.

N.J.A.C. 14:4-2.6A Preferred Supplier Freeze

11. COMMENT: Overall, Rate Counsel endorsed the PSF mechanism and the structure of this section, however, Rate Counsel requested that the Board clarify the cost responsibility for compliance costs associated with implementing or administering PSF procedures. Rate Counsel recommended that costs be fairly split between shareholders and customers that directly benefit from additional protection to ensure that any charges associated with carrying out this freeze will be minimal and will not be an additional burden placed solely on ratepayers. Rate Counsel suggested that after a 50/50 split, the remaining administrative costs should be equitably applied to the supply portion of the bill for default and shopping customers alike, based on the suppliers' load ratio share or some other methodology. Rate Counsel suggested that rather than having the utilities recover all of these costs through distribution rates, utilities could seek recovery for prudently incurred costs through an appropriate supply administrative cost recovery mechanism, such as the BGS reconciliation charge for default customers or from the TPSs through the LDCs' TPS agreements.

RESPONSE: The Board disagrees with Rate Counsel's suggestion that utility shareholders be required to absorb 50 percent of these costs. Basic ratemaking principles permit the utilities the opportunity to recover from customers prudently incurred costs associated with serving customers. The new rule provisions are designed to protect all customers. The Board believes it is appropriate for the utilities to be permitted the opportunity to recover these costs from customers through normal ratemaking procedures. It would be arbitrary to pre-determine that 50 percent of these costs should be absorbed by shareholders without a finding that such costs were incurred imprudently. The Board also disagrees with Rate Counsel's representation that it would be improper for these costs to be recoverable through distribution rates. The LDCs presently recover similar administrative costs, such as those related to change order notifications to customers, through distribution rates, either directly through the delivery charge or indirectly through a delivery rider. Pursuant to the Rate Counsel's proposal, shopping customers would pay for these costs through their TPS charges and non-shopping customers would pay for these costs through their BGS or BGSS charges. It, therefore, appears that the only difference between Rate Counsel's proposal and the current rate treatment for similar costs would be that a customer might pay more or less of these costs depending upon whether or not they shop or which TPS they use. As noted above, the Board believes that all customers benefit from energy competition rules and cost recovery through distribution charges, where a customer will pay the same amount regardless of whether they shop or which TPS they choose, may be more appropriate. Therefore, the Board declines to make Rate Counsel's proposed changes. The parties in rate cases may present testimony proposing alternate rate design recovery for these costs and the Board maintains the ability to address any such proposals in those proceedings.

12. COMMENT: In order to reduce barriers for low-income customers, Rate Counsel recommended the addition of a provision granting agencies that assist with the Low-Income Home Energy Assistance Program (LIHEAP), Universal Service Fund (USF), and Fresh Start enrollment, with customer consent, the authority to file for or lift a freeze on a customer's behalf. To the extent that a LIHEAP, USF, or Fresh Start enrollment agency determines during program enrollment that a customer would prefer to "implement or lift a preferred supplier freeze," that agency should be explicitly authorized to submit this written request on the customer's behalf. Rate Counsel opined that this procedural addition to the draft rules would ensure that administrative barriers do not prevent low-income customers from protecting their interests. Rate Counsel recommended the following language be added to the subsection to read:

In the event that a customer receives assistance from the Low-Income Home Energy Assistance Program (LIHEAP), or is a participant in the Universal Service Fund, or the Fresh Start program, the agency enrolling the customer into that program is authorized, with the customer's consent, to submit a request to implement or lift a preferred supplier freeze for the provision of electric generation service or gas supply service.

RESPONSE: The Board appreciates Rate Counsel's recommendation to reduce barriers for low-income customers participating in assistance programs, however, the Board declines to include the commenter's proposed language. The proposed rules are designed to ensure that requests to implement or lift a PSF are made directly by the customer, as the PSF is a customer-specific election that affects the customer's energy supplier and account status. Expanding this authority to third-party assistance agencies, even with customer consent, raises concerns regarding the potential for undue influence or customer confusion.

13. COMMENT: Rate Counsel recommended that language be added at N.J.A.C. 14:4-2.6A(i) to ensure that customers who are in arrears may still request a supplier freeze. Rate Counsel suggested adding the following bolded language:

All LDCs shall permit preferred supplier freezes on a nondiscriminatory basis to all customers, regardless of the customer's **payment status** or electric and gas supplier selections.

RESPONSE: The Board does not find it necessary to explicitly reference the customer's payment status in the provision. The PSF is intended to prevent unauthorized supplier changes and does not alter a customer's billing obligations or arrearage status. The Board expects that LDCs will administer the PSF in a manner consistent with the proposed language requiring LDCs to do so. Therefore, the Board declines to modify the rule as suggested.

14. COMMENT: Rate Counsel expressed general support for the customer communication requirements at N.J.A.C. 14:4-2.6A(k), but recommended that the language utilized by the LDCs to explain the supplier freeze provisions be reviewed and approved by the Board or Board staff before it is released to customers, in order to ensure that the language is clear and covers all aspects of the provisions. Rate Counsel recommended that the language at N.J.A.C. 14:4-2.6A(k)1 be revised to add the following bolded language:

1. A clear and neutral **statement** that the customer may opt to freeze either a TPS or the LDC as their supplier **which shall be reviewed by the Board or Board staff prior to its release to customers**;

RESPONSE: The Board agrees that customer communications regarding the PSF should be clear, accurate, and neutral. The proposed rules establish specific content requirements to ensure that customers are adequately informed of their options. However, the Board declines to require prior review and approval of all customer communications by the Board or Board staff. Such a requirement would create administrative inefficiencies and could delay the timely implementation of customer notifications. The Board retains oversight and may review customer communications for compliance as needed. LDCs remain responsible for ensuring that their communications comply with applicable rules and are not misleading. Accordingly, the Board finds that the proposed requirements are sufficient and declines to adopt Rate Counsel's recommendation.

15. COMMENT: Rate Counsel asserted that one barrier to easily understanding information regarding programs and processes, such as a PSF, is the failure to translate programs or process requirements from formal legal language into Plain Language. The term "Plain Language" has a technical meaning, detailed by the Plain Language Association International. Rate Counsel proposed inserting the following language:

Any information provided to customers pertaining to a [PSF], either verbally or in writing, shall be clearly set forth in easy-to-understand, ISO 24495-1:2023 conforming Plain Language.

RESPONSE: The Board agrees that information provided to customers regarding the PSF should be clear, understandable, and accessible. The Board notes that the proposed rules already require that customer communications include specific information regarding the PSF, including how to implement or lift the freeze and the implications of doing

so. The Board expects that such communications will be presented in a manner that is clear and not misleading to customers. However, the Board declines to make Rate Counsel's recommendation to require compliance with a specific "Plain Language" standard. The Board finds that incorporating a specific language standard into the rules is not necessary to achieve the objective of clear customer communication. The Board will continue to monitor customer communications and may provide guidance or take appropriate action if communications are found to be unclear or misleading. Accordingly, the Board declines to modify the proposed rule as suggested.

16. COMMENT: Rate Counsel disagreed with the Board's proposed regulations at N.J.A.C. 14:4-2.6A(m), which requires an LDC to temporarily lift a freeze when a customer's TPS merges with, or has its customers assumed by, another TPS. The LDC is then granted the authority, undertaken independently and without prior notice, to reinstate the PSF with the new TPS for each customer account. Rate Counsel considers this scenario problematic, as a customer with a PSF has already affirmatively declined to effectuate a switch under any circumstances, merger or otherwise. Lifting the freeze in these situations would undo a prior customer decision without explicit consent and leave customers again vulnerable to slamming. Rate Counsel recommended that, when a TPS ceases to exist through a merger or when its customers are assumed by another TPS, customers with a freeze should be treated the same as when a TPS goes bankrupt or is unable to continue service as dictated at N.J.A.C. 14:4-2.6A(n). Pursuant to the procedure set forth at subsection (n), the LDC is authorized to remove the PSF, however, the affected customer accounts are transferred to the "default" supply services provided by the local utility, either BGS for electric, or BGSS for gas. These services are approved by the Board to ensure their rates are based on market conditions while a new TPS is an entirely unknown entity to the customer. Rate Counsel, therefore, recommended that customers with a PSF should not be transferred to a new TPS due to merger or assumption and, at most, the customer should be allowed to exercise an "opt-in" choice in the event of a merged or acquired TPS.

RESPONSE: The Board disagrees with Rate Counsel's recommendation that customers with a PSF not be automatically transferred to a successor TPS following a merger or other assumption of customers. The Board's proposed treatment of customers pursuant to the new PSF rule is aligned with N.J.A.C. 14:4-7.10A, which permits the transfer of residential supply contracts under defined conditions, rather than directing treatment as a new enrollment. Pursuant to this provision, a transfer of a residential contract from one TPS to another is not considered a customer-initiated switch but a continuation of the customer's existing supply service. The Board believes that requiring all affected customers with a PSF to be automatically returned to BGS or BGSS service absent an affirmative opt-in election could create unnecessary customer disruption and administrative burdens, particularly where the successor TPS is assuming existing contractual obligations and continuing service to the customer. The Board further notes that customers remain protected through the notification requirements set forth at N.J.A.C. 14:4-7.10A and through the reinstatement of the PSF with the successor TPS following the transfer. Accordingly, the Board declines to modify the proposed rule as suggested.

17. COMMENT: Rate Counsel stated that the rules are unclear on how LDCs will be notified if a TPS declares bankruptcy, merges, or is unable to serve customers. Rate Counsel recommends that the Board notify all LDCs within 15 days of when it receives notice that a TPS operating in the State has either declared bankruptcy, merged with another entity, or is otherwise unable to serve customers since the Board may receive notice of this information before an LDC.

RESPONSE: The Board thanks Rate Counsel for its comment. The Board believes that the LDCs are appropriately notified through existing processes when a TPS becomes unable to serve customers. At this time the Board declines to make the change requested by Rate Counsel. The Board and Board staff will continue to monitor the existing processes and will consider a formal rule for LDC notification in a future rulemaking if it becomes necessary.

18. COMMENT: JCP&L noted that it would promote administrative efficiency and minimize potential confusion about the correct PSF process later if the proposed rule were modified to specify that a TPS must provide

an LDC with a special EDI enrollment code when seeking to effectuate certain transfers. This would remove ambiguity from the process and allow LDCs to effectuate certain transfers more expeditiously, cutting down on the risk of a potential new class of customer complaints about "lost savings" due to an LDC's alleged improper denial of a customer authorized switch or alleged delay in processing a change order. JCP&L stated that subsection (f) and paragraph (k)7 appear to contemplate that, after a customer's requested PSF is in place with a TPS, the TPS may issue a change order to the LDC to switch the customer's service to BGS or BGSS, as applicable, and the LDC would then be responsible for lifting the PSF and making the switch. When communicating with the LDC about the switch, JCP&L proposed that the TPS be required to use a special EDI enrollment code for that limited purpose. Further, to increase transparency, upon receiving acknowledgment that the LDC has processed the switch, JCP&L asserted that the TPS should be responsible for notifying the customer, in writing, of the switch and the lifting of the PSF, providing an explanation consistent with paragraph (k)7.

RESPONSE: It is the Board's intention that the LDC be responsible for implementing and lifting a PSF, and only with direct contact from the customer. The Board believes this is essential to ensuring that a PSF is not implemented or lifted without the customer's authorization. Pursuant to proposed N.J.A.C. 14:4-2.6A(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.

Therefore, in instances, as discussed by JCP&L, when a TPS would issue a change order to the LDC to switch the customer's service to BGS or BGSS, as applicable, the TPS may not know whether or not the customer has a PSF in place. The LDC would have this information. Further, as the LDC would be the sole party responsible for implementing and lifting the PSF, the LDC should be responsible for sending the appropriate notices, as indicated at proposed N.J.A.C. 14:4-2.6(n). Further, the Board declines to specify any EDI enrollment code requirement at this time and suggests that any EDI recommendations be presented to and addressed through the NJ EDI Working Group.

19. COMMENT: JCP&L recommended that, when communicating with the LDC about transferring a customer to a successor TPS if the customer's preferred supplier merges with, or has its customers assumed by, a successor TPS as contemplated at subsection (m), the preferred supplier or successor TPS should be required to use a special EDI enrollment code for that limited purpose. Further, to increase transparency, upon receiving acknowledgment that the LDC has processed the transfer, the successor TPS should be responsible for notifying the customer, in writing, of the transfer, providing an explanation consistent with paragraph (k)6. JCP&L also noted that, when communicating with the LDC about transferring a customer from a preferred supplier to BGS or BGSS, as applicable, in the event that the customer's preferred supplier declares bankruptcy or is otherwise unable to continue to serve its customers pursuant to subsection (n), the preferred supplier should be required to use a special EDI enrollment code for that limited purpose. Further, JCP&L recommended that the preferred supplier, rather than the LDC, be responsible for notifying the customer, in writing, of the transfer, providing an explanation consistent with paragraph (k)7.

RESPONSE: When transferring customers in the case of a merger or bankruptcy, a TPS may not know which customers have a PSF in place, as this information would be tracked by the LDC. If JCP&L has specific EDI coding recommendations regarding how the LDCs could flag which customers have PSFs in place through EDI, or how TPSs could flag EDI switches as occurring because of a merger or bankruptcy, the Board recommends that such recommendations be presented to and addressed through the NJ EDI Working Group. Further, N.J.A.C. 14:4-7.10A sets forth how a TPS must notify customers when a TPS purchases another TPS, the accounts of customers of another TPS, or the TPS accounts are otherwise transferred to an affiliate company, and when a TPS ceases operations and does not transfer its residential contracts to another TPS. However, the Board believes that the LDC is the appropriate party to

provide notice to customers regarding the status of a PSF in these circumstances. Customers are generally more familiar with communications received from their LDC than from a TPS that may be unknown to them due to a merger, acquisition, or transfer of accounts. The Board believes that utility-issued notices will better ensure that customers are adequately informed regarding the status of their PSF and any actions affecting their supplier enrollment. Accordingly, the Board declines to modify the proposed rules as suggested.

20. COMMENT: NJUA expressed appreciation that the rulemaking clarifies a concern raised in prior comments regarding the appropriate application of the PSF. NJUA noted a potential operational issue with the implementation of the PSF, specifically, that a customer who contacts the LDC to request a switch from a TPS to BGS or BGSS, and who also wishes to implement a PSF with the LDC, would be required to complete this process in two steps. As the freeze may only be applied to the customer's current supplier, the LDC would be unable to place a PSF on the utility supply at the time of the initial request, requiring the customer to contact the LDC again after the switch is completed. NJUA asserted that this process may create unnecessary customer burden and administrative inefficiency and recommends that the rules be modified to allow the LDC to process both the supplier switch and the implementation of the PSF simultaneously in this limited circumstance.

RESPONSE: The Board acknowledges NJUA's concern regarding the need for a customer to complete the supplier switch and PSF request in two separate steps and recognizes the importance of efficient and customer-friendly processes. However, the Board declines to make the requested exception to allow a PSF to be placed on a future supplier prior to the completion of a switch. The Board maintains that a PSF should apply only to the customer's current supplier of record, as this approach ensures clarity and accurate administration of the freeze. While this may require a subsequent request after the supplier change is completed, the Board does not find that this creates an undue burden on customers and will continue to monitor implementation for potential future improvements.

21. COMMENT: RESA recommended several modifications related to the implementation of the PSF. First, RESA believes that the PSF should apply only to residential customers, asserting that commercial and industrial customers are sophisticated parties generally governed by principles of freedom of contract. RESA also expressed concern that the proposed rules do not clearly explain how customers would implement or remove a PSF and recommends that the process include safeguards to ensure that customers intentionally elect the freeze and understand how to remove it. Specifically, RESA recommended that the process be separate from other utility processes and that LDCs create dedicated webpages and automated phone options for customers to implement or remove a freeze. Additionally, RESA recommended that the Board require LDCs to provide TPSs with regularly updated eligible customer lists (ECLs) identifying customers eligible to enroll with a TPS and excluding customers subject to a PSF or other switching restrictions. RESA stated that such lists would reduce enrollment errors, prevent marketing to ineligible customers, and assist TPSs in verifying customer eligibility and account information. RESA noted that similar systems are used in other states, including Pennsylvania and Ohio.

RESPONSE: The Board appreciates RESA's recommendations regarding implementation of the PSF. The Board agrees that customers should clearly understand how to implement or remove a PSF and that appropriate safeguards should exist to ensure that PSFs are intentionally elected by customers. The Board expects LDCs to implement the PSF process in a manner that is clear, accessible, and not misleading to customers. However, the Board declines to limit the PSF solely to residential customers, as the Board believes that all customer classes should have the option to utilize the PSF if they choose to implement additional safeguards regarding supplier changes. The Board also declines to adopt RESA's recommendation requiring the creation and distribution of ECLs. The Board has concerns regarding customer privacy, data sharing, and the administrative burdens associated with maintaining and distributing such lists. Additionally, the Board does not believe that requiring LDCs to provide TPSs with lists identifying customers subject to a PSF is necessary to implement the PSF, as the proposed rules already require the LDCs to determine whether a supplier change request may

proceed or must be rejected due to a PSF. Requiring the LDCs to also provide TPSs with customer-specific PSF information is unwarranted and unnecessarily burdensome. Finally, while the Board appreciates RESA's suggested implementation methods, the Board declines to prescribe specific website or automated phone system requirements within these rules. The Board believes that LDCs should retain flexibility in determining the operational methods used to administer the PSF, provided that such processes comply with the Board's rules and adequately inform customers. Accordingly, the Board declines to modify the rules as suggested.

22. COMMENT: NJUA expressed gratitude for a clearly stated implementation timeline in the rules. However, NJUA is concerned that the six months provided does not provide sufficient time for LDCs to update their EDI transactions to incorporate the necessary PSF-related enhancements and implement the required changes to their back-end customer systems to allow for the communication of TPS change order rejections. With respect to EDI enhancements, any new procedures governing EDI transactions must first be developed, proposed, reviewed, and agreed upon through the EDI Working Group. Only after the EDI protocols are finalized and accepted, can the LDCs fully program their back-end systems accordingly. Given this process and the need for coordinated system development and testing among the LDCs, their vendors, and TPSs to ensure the utility system is processing the new EDI fields properly, NJUA asserted that a six-month implementation window will not provide sufficient time for LDCs to develop and deploy the required procedures in a reliable and compliant manner. NJUA, therefore, requested that the Board allow LDCs at least 12 months following the effective date of the rules to finalize and implement the EDI communication applications.

RESPONSE: In consideration of the fact that the PSF changes will require efforts not just by the LDCs or the TPSs, but coordinated system development and testing among the LDCs, their vendors, and TPSs to ensure the utility system is processing the new EDI fields properly, the Board agrees that a longer preparation time may be necessary. The Board is, therefore, adjusting N.J.A.C. 14:4-2.6(e) and 2.6A(a) upon adoption to provide a 12-month implementation period.

Subchapter 3. Affiliate Relations

General Comments

23. COMMENT: Rate Counsel noted its support for the Board's proposed changes at N.J.A.C. 14:4-3.1, but expressed concern that the language at N.J.A.C. 14:4-3.1 and the definition of "affiliate" at N.J.A.C. 14:4-3.2 creates ambiguity about whether rules that apply to gas utilities' dealings with affiliated entities operating retail markets in New Jersey also apply to the utilities' dealings with wholesale energy markets outside the State. According to Rate Counsel, the Board's affiliate relations standards are intended to prevent cross-subsidization between public utilities and non-utility affiliates, as well as deter discriminatory practices that would benefit unregulated affiliates at the expense of other market participants. Rate Counsel noted that New Jersey gas utilities often transact with their own affiliated companies for off-system sales and capacity release transactions that occur in competitive markets upstream of the utility's gas distribution system. Rate Counsel indicated that N.J.A.C. 14:4-3.1 appears to limit the applicability of Subchapter 3 to transactions with retail customers, and, therefore, it is unclear whether these gas transactions fall within the scope of the Board's affiliate relations rules. Rate Counsel noted that self-dealing and cross-subsidization in wholesale gas markets can reduce competition and increase costs for retail customers. To address these concerns, Rate Counsel recommended the following changes to N.J.A.C. 14:4-3.1 and 3.3:

14:4-3.1(a)1: This subchapter shall apply as follows:

N.J.A.C. 14:4-3.3, 3.4, and 3.5 set forth standards of conduct applicable to transactions, interactions, and relationships between an electric utility or gas utility **and an affiliate**, including [a related competitive business segment of an electric or gas 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.

14:4-3.3(e)1: If an electric and/or gas public utility provides supply, capacity, services, or information to an **affiliate** [related competitive business segment of its public utility holding company], it shall make the offering available, via a public posting, on a non-discriminatory basis, to non-affiliated market participants, which include competitors serving the same market as the related competitive business segment of the electric and/or gas public utility's holding company.

14:4-3.3(f): An electric and/or gas public utility selling or making an offer to sell surplus energy, kWh and/or Dth, respectively, and/or capacity, kW or therms, respectively, on a short-term basis to its **affiliate** [PUHC or a related competitive business segment of its public utility holding company,] shall make the offering available on a non-discriminatory basis to non-affiliated electric or gas marketers, via a public posting.

14:4-3.3(g): An electric and/or gas public utility making an offer to sell surplus energy, kWh and/or Dth, respectively, and/or capacity, kW or therms, respectively, on a long-term basis to its **affiliate** [PUHC or a related competitive business segment of its public utility holding company,] shall make the offering available on a non-discriminatory basis to non-affiliated electric or gas marketers, via a public posting.

Rate Counsel's proposed changes would ensure that the affiliate relations standards at N.J.A.C. 14:4-3.3, 3.4, and 3.5 apply to transactions, interactions, and relationships with affiliated entities in both retail and wholesale energy markets. The changes proposed would ensure that marketers that supply surplus energy to customers have access to information about gas suppliers and upstream pipeline capacity offered by the utilities.

RESPONSE: The Board thanks Rate Counsel for its comment. The Board declines to make the changes proposed by Rate Counsel because the Board believes that the existing regulatory provisions at N.J.A.C. 14:4-3.3 and 3.6 give the Board sufficient ability to protect the interest of consumers and the competitive marketplace by prohibiting discriminatory transactions between public utilities and their related competitive business segments. N.J.S.A. 48:3-55, 56, and 58 additionally prohibit public utilities from using regulated rates to subsidize competitive services and authorize the Board to ensure that public utilities do not impose unjust preferences or discriminations. Further, the Board's existing authority pursuant to N.J.S.A. 48:3-56 and 58 to audit cost allocations between a public utility's competitive and non-competitive services enables the Board to ensure that there is no self-dealing and cross-subsidization among affiliates. Rate Counsel has the right to review these transactions and cost allocations as part of the Board's proceedings. The Board and Board staff will continue to monitor the transactions and affiliate interrelationships described in Rate Counsel's comment and the potential impacts to New Jersey customers, market competitiveness, and other purveyors providing services within those competitive markets. The Board will consider making the proposed changes as part of a future rulemaking, if necessary.

Subchapter 4. Public Utility Holding Company Standards

N.J.A.C. 14:4-4.4

24. COMMENT: Rate Counsel expressed support for the Board's proposed new language at N.J.A.C. 14:4-4.4.

RESPONSE: The Board thanks Rate Counsel for its comment.

Subchapter 5. Energy Licensing and Registration

General Comments

25. COMMENT: RESA noted that the current NJ Power Switch website administered by the BPU has not been updated in eight years, particularly the list of licensed TPSs and pricing information on the following webpage: <https://nj.gov/njpowerswitch/suppliers/>. RESA recommends that the Board propose a rule amendment requiring a more robust and interactive retail supply shopping website that is updated more often by the BPU. Such a website should include the following: (a) information for customers on how to shop for retail energy supply,

important terms and conditions, and consumer rights; (b) the ability for customers to view available TPS plans based on their utility and/or zip code; (c) the functionality to filter and sort TPS energy plans by customer class, plan type (fixed vs. variable), renewable energy content, etc.; (d) the ability for customers to download/export TPS offers so they can conduct their own analysis; and (e) a portal for TPSs to upload energy plan offers that include the supplier's name and contact information; plan details, including any incentives, renewable content, early termination fees, additional fees, and links to the TPS enrollment website and terms of service. Additionally, the website should show TPS offers in random order instead of alphabetical order, giving a TPS with a name at the end or middle of the alphabet a fair chance to get their offer reviewed. The retail shopping website design should also provide direct links to TPS websites so customers can choose an offer and enroll on the TPS website seamlessly. The retail shopping website's address should be included on customers' utility bills, bill inserts, and/or utility websites. Other states' websites, such as those in Pennsylvania, Ohio, and New Hampshire, have this functionality and could be great resources for the BPU when redesigning the New Jersey website. These improvements would enable consumers to learn more about how energy competition works and make more informed decisions regarding which products to sign up for.

RESPONSE: The Board is able to make improvements to the NJ Power Switch website outside of the rulemaking process and will take these recommendations into consideration. The Board declines to propose any rule amendments in response to RESA's comment at this time because the Board does not believe that it is necessary to establish specific website design elements in its rules.

26. COMMENT: RESA recommended that the Board provide an option for electronic filing of licensing applications and annual information updates, including the ability to provide an ACH wire transfer and/or credit card payment instead of a paper check for payment of fees. Other states allow for this method of filing, and it makes the process easier and cuts down on the amount of paper utilized in the filings.

RESPONSE: The Board's rules do not dictate a specific method of payment. Currently, electronic filings are accepted through email to the Board Secretary (Docket No. EO20030254) or the BPU External Access Portal. The Board is not currently equipped to process credit or debit card payments, but ACH wire transfers are currently an acceptable method of payment for fees. The Board will continue to consider updates to improve efficiency and efficacy of the filing process but declines to make any changes to the rules at this time.

N.J.A.C. 14:4-5.5 Requirements that Apply After a License or Registration is Issued

27. COMMENT: Rate Counsel expressed general support for the proposed addition of subsection (k) to this provision, but recommended that the Board provide a waiting period between the expiration of a TPS license and the return of the supplier's surety bond to ensure that no subsequent complaints or investigations arise in that time period.

RESPONSE: The Board appreciates Rate Counsel's comments in support of the rule amendment. New subsection (k) is intended to codify an existing process currently undertaken by Board staff that does not include a formal waiting period. Processing of surety bond return requests generally does not occur instantaneously and Board staff generally has sufficient time following a request to monitor for subsequent complaints or investigations. The Board will consider adding a formal waiting period in a future rulemaking if it becomes necessary, but declines to make Rate Counsel's suggested change at this time.

N.J.A.C. 14:4-5.7 Required Contents of the Annual Information Update Form of an Electric Power Supplier or Gas Supplier License

28. COMMENT: RESA recommended that the BPU amend its TPS licensing rules to require BPU staff to send each TPS a letter, email, or other proof that its license has been renewed in response to the TPS's Annual Information Update Filing. The New York Public Service Commission issues such letters in response to license renewals.

RESPONSE: On May 10, 2019, P.L. 2019, c. 100 and 101 were signed into law providing that TPS licenses issued by the Board shall not expire, so long as the licensee pays to the Board, within 30 days before the anniversary date of the last approved licensing application, a license

renewal fee, as determined by the Board, accompanied by an annual information update on a form prescribed by the Board. As a result, the annual license renewal process was replaced by an annual license update. Board staff has provided TPS courtesy letters confirming receipt of these annual license updates since the effective date of P.L. 2019, c. 100 and 101.

N.J.A.C. 14:4-5.12 Fees

29. COMMENT: RESA expressed support for the proposed application fee increases as the fees have not been changed for 20 years and urges the Board to use these additional funds to update the NJ Power Switch website.

RESPONSE: The Board appreciates this comment in support of the rule amendment and will take RESA's recommendations to improve the NJ Power Switch website into consideration as noted in the Response to Comment 25. The Board declines to implement any changes to the rule provision because the Board does not address use of revenues received in its rules.

Subchapter 6. Government Energy Aggregation Programs

General Comments

30. COMMENT: RESA noted that the current government energy aggregation (GEA) program process involves many forms that need to be signed and notarized. This practice is not clearly codified in the rules, and RESA suggests an easier electronic process be included.

RESPONSE: The Board thanks RESA for its comment. RESA did not provide sufficient information to identify what processes and forms it is referring to, nor did it recommend any specific rule language changes to bring these requirements into the rules. It is also unclear whether RESA is referring to processes or forms that may be required by the Board or through the Local Public Contracts law. However, the Board always appreciates the opportunity to improve and streamline its processes and encourages RESA to engage further with Board staff regarding these concerns.

31. COMMENT: RESA expressed concern that the BPU's proposed language requiring a customer with a PSF with the LDC who wishes to participate in a GEA to go through a two-step process of having the PSF removed and then, separately reaching out to the broker or municipality to request opt-in enrollment to the GEA program poses an administrative burden that may cause customers not to pursue the GEA. Therefore, RESA recommended that, if a customer reaches out to the utility to have the PSF removed, then the utility should send TPSs a list of those customers, so that the TPSs do not have to keep them off of the GEA program list for opt-out notices, including any refreshes.

RESPONSE: The Board believes that offering the PSF to customers is important to allow customers to keep their supplier of choice. When a customer has proactively contacted the LDC to implement a PSF, the customer has essentially requested that there be added steps/safeguards in place so that their supplier of choice is not switched without their consent. The Board does not believe that it is excessively burdensome for the customer to be required to reach out to the LDC to have the PSF removed before the customer elects to use another supplier, whether that be by independently shopping or by joining a GEA program.

32. COMMENT: RESA recommended that the Board require the LDC to remove customers who have opted out of the GEA program when the LDC sends the customers' 12-month usage history data to brokers for pricing. Including this usage data for customers who have opted out only confuses the process and creates pricing and forecasting inconsistencies. Without this rule change, customers who opted out, but whose data the LDC sent to the broker, may end up being accidentally enrolled in the GEA program.

RESPONSE: The two types of GEA programs operate in ways that are meaningfully different with respect to the data that is provided by the LDC. For an Option 1 GEA program, existing N.J.A.C. 14:4-6.5(k)1 already requires the LDC to send usage data only for customers who "did not submit an opt-out response during the 30-day response period." However, for an Option 2 GEA program, the LDC is required to send the usage data prior to the opt-out process to aid in the solicitation of bids. In this case, the LDC cannot remove the usage data for customers who have opted out because this process has not yet occurred. The aggregator is

responsible for tracking the opt-outs and for sending the EDI transaction to the utility to switch the customers who have not opted-out, and it is unclear how customers may accidentally be enrolled based on the usage data received from the LDC. The Board, therefore, declines to revise the rule as requested by RESA.

33. COMMENT: RESA expressed concern that, for Option 1 GEA programs, the LDC is the option administrator, but for Option 2 GEA programs, the lead agency or participating municipality is the option administrator. The municipalities generally delegate this responsibility to the broker or the TPS. As brokers and TPSs can change over time, RESA believes the LDC should track the customers who opt-out for both Option 1 and Option 2 GEA programs. Alternatively, RESA recommended a method used in Ohio, which has a "Do Not Aggregate List" that customers can put their name on and suppliers can access and download from a portal. In other states, customers often contact multiple parties to opt out, including the utility, supplier, broker, and municipality.

RESPONSE: As noted by RESA, the LDC is already responsible for tracking opt-outs for an Option 1 GEA program. However, N.J.S.A. 48:3-94.e provides that the municipality is responsible for keeping track of opt-outs in an Option 2 program. RESA's recommendation to shift this responsibility to the LDC would, therefore, be inconsistent with the provisions of the statute. Further, the Board believes it is more efficient, and less open to errors, to have one party in any GEA program keep track of the opt-out notices rather than have multiple parties as recommended by RESA. As such, the Board declines to make the changes recommended by RESA.

34. COMMENT: RESA noted that the BPU's requirements for the GEA program plan and the approval process are very rigid and do not allow for any flexibility. If the plan is approved, the municipality cannot make any changes to the plan, even though market conditions and other factors may have changed between the time the approval occurred and the time the program launches. RESA recommended the approach taken by Massachusetts, which allows a municipality to modify its plan, provided that it allows at least 30 calendar days for public review of the revised plan. Following public review, the municipality must make the plan publicly available and submit the revised plan to the Massachusetts Department of Public Utilities (Mass DPU) for informational purposes. If a municipality is uncertain whether a proposed revision is consistent with the Mass DPU Guidelines, it may request a consultation with the Mass DPU.

RESPONSE: The Board does not agree that its GEA requirements are rigid. Municipalities can make certain changes to GEA programs pursuant to N.J.A.C. 14:4-6.11, which includes parameters for such changes. It includes requirements that customers be provided with change notices and allows them to opt-out of the GEA program if there is a change in the TPS or the pricing structure. The Board believes that these types of changes are significant and the customer should have the ability to easily opt-out of the program if they do not agree to these types of changes.

35. COMMENT: Rate Counsel recommended precluding GEA participants from using terms other than "fixed" or "variable" to describe their rates, to help reduce confusion and protect ratepayers.

RESPONSE: N.J.A.C. 14:4-6.6(r) provides that the opt-out notice that must be provided to potential GEA customers pursuant to N.J.A.C. 14:4-6.6(q) must include a GEA Program Summary that shall "[s]tate, in a 12-point, boldface font, whether the contract is for a fixed rate or a variable rate." If the contract contains a "fixed rate element and a variable rate element," for example, if it were fixed for a period of time and then variable for a period of time, this would need to be set forth in the GEA Program Summary. Therefore, the customer would be advised of exactly what type of product is being offered and further changes are not necessary at this time.

36. COMMENT: RESA recommended that the BPU remove all Option 1 GEA program regulations because it does not make sense to send opt-out notices to customers prior to the municipality's selection of a TPS. At that point, the TPS's pricing information will not yet be known, and the customers receiving opt-out notices will not have the necessary information to make an informed decision as to whether to opt-out of the program.

37. COMMENT: JCP&L recommended that the BPU remove all Option 1 GEA program regulations, as the inclusion of Option 1 programs

will create a significant administrative burden for LDCs, and LDCs should not be responsible for notifying customers about such programs.

RESPONSE TO COMMENTS 36 AND 37: While the term “Option 1” GEA Program does not appear in the statute, the provisions addressed by the commenters regarding the program described as “Option 1” in the Board’s rules are derived from the statute. N.J.S.A. 48:3-93.2 addresses including “residential customers on an opt-out basis prior to the solicitation of bids” and “requires an electric public utility or gas public utility, as the case may be, to notify utility customers.” The changes requested by RESA and JCP&L are inconsistent with the statute, and the Board, therefore, declines to make the proposed edit.

N.J.A.C. 14:4-6.2 Definitions

38. COMMENT: Rate Counsel noted its support for the Board’s proposed updates to the definitions of Option 1 and Option 2 programs and its proposed addition of exemptions for customers who qualify for a PSF.

RESPONSE: The Board thanks Rate Counsel for its comment.

N.J.A.C. 14:4-6.3 General provisions

39. COMMENT: Rate Counsel recommended additional language to ensure that overcharged TPS customers are refunded the amount of their overpayment plus interest, consistent with the Board’s standards for EDCs. Rate Counsel cited a recent overbilling problem in a GEA as an example of this issue, where it was discovered that the TPS overcharged thousands of residential customers, with the total amount overcharged estimated to be between \$280,000 and \$320,000. The TPS issued refunds to all overcharged accounts but it would not pay interest even though it had held some of the overcharged customers’ money for over a year. The TPS refused to clarify whether this was a one-time incident or a persistent problem. Rate Counsel argued that the Board has clear authority pursuant to EDECA to regulate the process by which a TPS may offer and provide retail electric generation and gas supply service to utility customers. EDECA further authorizes the Board to regulate GEA programs pursuant to N.J.S.A. 48:3-92 through 95. Rate Counsel recommended that the Board add the following language:

(m) A residential customer who is overcharged will be reimbursed with interest, and the TPS and/or government aggregator responsible for overcharging the customer(s) will, at the Board’s discretion, be subject to an investigation and audit to determine the amount that was overcharged and the total number of customers affected.

TPS customers are entitled to the same customer protection standards as with their LDC and should be reimbursed in situations where they are overcharged. These principles are essential to the functioning of retail competition for electric and gas service in New Jersey, as they will provide customers with the confidence to shop with less fear of potentially unscrupulous commercial practices.

RESPONSE: The Board shares Rate Counsel’s concerns about TPS billing errors. Proposed new N.J.A.C. 14:4-7.14, Billing errors, will address many of the issues that Rate Counsel raised, as it sets new reporting requirements for TPS billing errors, including those impacting GEA customers, and sets forth the requirements for refunding overbillings with interest. Addressing these concerns at N.J.A.C. 14:4-7.14 ensures that the reporting and interest payments follow the same guidelines regardless of whether the error occurs within a GEA program. As such, the Board declines to add the language proposed by Rate Counsel.

N.J.A.C. 14:4-6.4 Municipal and/or County Energy Aggregation Programs

40. COMMENT: RESA recommended amending N.J.A.C. 14:4-6.4(e) to allow “electric or gas related services” or “optional services” so that TPSs may offer other services customers want, such as smart thermostats, home warranties, ring doorbells, etc., as part of GEA programs. RESA noted that N.J.S.A. 48:3-94.a(4)(b) specifically permits the Board to adopt rules and regulations related to the inclusion of electric and gas related services in GEA programs.

RESPONSE: The Board declines to adopt the commenter’s recommendation at this time. The rulemaking record does not demonstrate customer demand for products identified by the commenter among GEA participants, and some customers may already own or subscribe to such

products. Incorporating these offerings into the GEA program could increase program costs for all participants without providing corresponding benefits to customers who do not need or use them. For these reasons, the Board will not expand the GEA program in the manner suggested by RESA.

N.J.A.C. 14:4-6.9 Price Requirements for Government-Private Programs

41. COMMENT: RESA recommended that the Board amend N.J.A.C. 14:4-6.9(b), which states that the TPS rate for the GEA program shall not exceed the benchmark price at the time of the contract award, unless it is a renewable energy product as described at subsection (g). RESA stated that, rather than limiting these GEA programs to an arbitrary pricing requirement, municipalities should be free to focus on programs that benefit their constituents in a variety of ways, including demand response, virtual power plants, or products that include electric- or gas- related services.

RESPONSE: The pricing provision at N.J.A.C. 14:4-6.9(b) reflects the statutory requirement at N.J.S.A. 48:3-94.b(2). As such, the Board declines to adopt RESA’s proposed change.

Subchapter 7. Retail Choice Consumer Protection

42. COMMENT: RESA recommended that the Board amend its regulations to allow TPSs to pass through capacity cost increases and other unforeseeable non-State-imposed cost increases, at their discretion, to their customers on fixed price contracts. This issue is of particular importance to RESA because of the extraordinary increase in capacity prices in the recent PJM Base Residual Auction (BRA). RESA asserted that BGS providers are permitted to do so and that TPSs are only permitted to pass through price increases mandated by operation of State law to customers on fixed price contracts. See N.J.A.C. 14:4-7.6(l); 7.12(a)2. As a result, RESA opined that TPSs are not on an equal footing with BGS suppliers. RESA further opined that, since the Board only allows capacity cost relief for the BGS product, TPSs are at a serious pricing disadvantage on fixed price contracts compared to the BGS product, which will cause more customers to opt for the default BGS option. The pass through of PJM capacity market price increases, which mitigates the regulatory risk of fixed price contracts, is necessary to maintain the health of the competitive energy market. Pass through enables TPSs to be on an equal footing with BGS suppliers who are permitted to pass along unexpected cost increases to their customers.

RESPONSE: The Board believes that it is essential that TPSs accurately communicate to customers regarding whether their rates are “fixed” or “variable” and that TPSs do not mislead customers into believing that their rates will be fixed if the TPS can increase those rates in the future. Pursuant to N.J.A.C. 14:4-7.12, if a TPS signs up or renews a customer at a rate that the TPS characterizes as “fixed” or “firm,” or the TPS uses other language to describe the rate as not variable, the TPS may not charge the customer a rate that is higher than the fixed rate during the period for which it is fixed without the customer’s affirmative consent, unless the TPS is required, by operation of law, to raise the customer’s rate to collect the Sales and Use Tax. The intention of these rules is to ensure that customers are able to rely on fixed energy rates to remain fixed when capacity costs increase. Further, the Board believes that RESA’s comparison of TPS fixed price contracts to BGS products on this issue is misplaced, as the BGS product is not described as “fixed price.” Additionally, the BRA true-up (if necessary) occurs when new BGS rates go into effect on June 1 and there are no mid-year changes for capacity cost changes for BGS. If a TPS wants to offer customers a product wherein the TPS can pass through capacity cost increases and other unforeseeable non-State-imposed cost increases to their customers, the TPS need only describe the product to their customers as “variable.”

N.J.A.C. 14:4-7.2 Definitions

43. COMMENT: RESA objected to the definition of “billing error” that the Board proposed at N.J.A.C. 14:4-7.2, stating that this definition would trigger the TPS billing error process even in situations where the LDC causes the billing error, such as in a utility consolidated billing situation or by providing incorrect usage information to a TPS that provides its own bills to customers. If the LDC causes the billing error, the LDC should be required to follow a separate reporting process, and

the requirements of existing N.J.A.C. 14:3-7.1(d) should, instead, be applicable to the utility billing error. RESA recommended that the definition of “billing error” at N.J.A.C. 14:4-7.2 be changed to the following: “a charge to a customer in excess of that set forth in the TPS contract **that is not caused by the LDC.**”

RESPONSE: The Board believes the definition correctly defines a billing error, as it indicates that the customer was charged in excess of the rate set forth in the TPS contract, regardless of the cause of the error. The Board believes the TPS is the appropriate party to report billing errors that affect TPS customers’ bills when the TPS becomes aware of the incident, as proposed at new N.J.A.C. 14:4-7.14(a). If the TPS believes it is not at fault for the error, the TPS should indicate the same in its report as part of N.J.A.C. 14:4-7.14(a)4, detailing the event that caused the billing error. Also, while RESA indicated that some billing errors could be caused by the LDC, it did not indicate if this has caused TPSs to incorrectly bill customers in the past or provide information regarding to what extent this has occurred. The Board believes the new reporting requirements will bring light to the issue of incorrectly billed TPS customers and the causes of these errors. Moreover, if the rule were modified so that the TPS only needed to report errors that it thought were not caused by the LDC, as proposed by RESA, some billing errors might not be reported if there was a dispute as to which party caused the billing error.

N.J.A.C. 14:4-7.3 Advertising Standards

44. COMMENT: Rate Counsel noted its support of the proposed amendments at N.J.A.C. 14:4-7.3 and 7.4, as the amendments give Board staff the ability to protect consumers from misleading advertising practices. Rate Counsel further recommended that the regulations provide Rate Counsel with the ability to recommend that Board staff request advertising and marketing materials from TPSs and investigate potential violations. As the advocate for all New Jersey ratepayers, Rate Counsel maintains that its office frequently receives complaints from consumers regarding TPS practices. Creating a formal mechanism for referral from Rate Counsel to Board staff will ensure that Rate Counsel and Board staff can continue to work together to provide the best protection for customers.

RESPONSE: The Board appreciates Rate Counsel’s support for the proposed amendments at N.J.A.C. 14:4-7.3. The Board also appreciates Rate Counsel’s recommendation regarding coordination between Rate Counsel and Board staff concerning potential TPS marketing and advertising violations. The Board notes that its Division of Customer Assistance staff currently reviews complaints and concerns received from various points of contact, including directly from customers, as well as referrals and information received from various State agencies, including Rate Counsel. Through these existing processes, Board staff may request advertising and marketing materials from TPSs and investigate potential violations, where appropriate. The Board further notes that these processes continue to evolve to ensure that they remain as effective and productive as possible in addressing consumer protection concerns. The Board does not believe that any amendments to the rules are needed to allow Rate Counsel to refer complaints about TPS advertising and marketing practices to Board staff and the Board encourages Rate Counsel to share all customer complaints received with the Board’s Division of Customer Assistance for further investigation. The Board also encourages Rate Counsel to discuss any recommendations for improving coordination with Board staff.

N.J.A.C. 14:4-7.6 Contracts

45. COMMENT: Rate Counsel expressed support for the proposed amendments at N.J.A.C. 14:4-7.6 requiring TPS providers to notify customers 30 days before the expiration of a fixed price element within the terms of the customer’s contract and requiring the TPS to provide “an explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public,” as well as “include the historical variable rate billed by the TPS for the three preceding months.” Rate Counsel recommended that the Board include a caveat that a TPS should be prohibited from referring to a TPS contract with both fixed and variable price elements as anything other than a “variable” price. Rate Counsel further recommended that the regulations be amended to require that the difference between fixed and variable rate elements be clearly explained in all marketing and advertising materials, as well as the

contract, in conformance with the most recently published International Organization for Standardization (ISO) Plain Language standard.

RESPONSE: The Board appreciates Rate Counsel’s support for the proposed amendments at N.J.A.C. 14:4-7.6 and agrees that customers should receive clear and understandable information regarding TPS pricing structures, particularly where a contract includes both fixed and variable rate components. However, the Board declines to modify the rules to require that any contract, including both fixed and variable rate elements be categorized solely as a “variable” price contract. The Board believes that the proposed disclosure requirements, including the requirement to explain the difference between fixed and variable rates and disclose historical variable rate information, adequately inform customers regarding the nature of the product being offered. The Board further believes that these requirements appropriately balance consumer transparency with flexibility regarding TPS product offerings and descriptions. The Board declines to require compliance with a specific external plain language standard, as incorporation of such a standard is not necessary to achieve the objective of clear customer communication. Accordingly, the Board declines to modify the rule as suggested.

46. COMMENT: RESA objected to the proposed amendments at N.J.A.C. 14:4-7.6(k) and 7.6A, requiring TPSs to provide the historical variable rates billed by the TPS for the preceding three months for contracts containing fixed, variable, or both fixed and variable rate elements. RESA asserted that this requirement is not relevant for fixed-price contracts and would be difficult to implement in situations involving bespoke or customer-specific pricing. Further, RESA recommended that the Board clarify the intended meaning of “both fixed and variable elements.” RESA also stated that newly introduced variable products may not yet have historical billing data available and that requiring disclosure of unrelated historical pricing could be misleading or inaccurate. RESA recommended that the Board, instead, require disclosure of historical variable rates for similarly situated customer classes, if available, or alternatively permit TPSs to provide a link to a webpage containing variable rate information required pursuant to the TPS marketing standards at N.J.A.C. 14:4-7.4(b)2.

RESPONSE: The Board disagrees that disclosure of historical variable rate information is irrelevant for contracts containing fixed-price elements. The proposed amendments are intended to provide customers with additional transparency regarding how pricing may change when a contract transitions from a fixed rate to a variable rate or otherwise contains a variable pricing component. The Board believes that providing customers with recent historical variable rate information will assist customers in making more informed decisions regarding TPS products and renewals. The Board also does not agree that disclosure of historical variable rate information should be limited to “similarly situated customer classes” or replaced solely with a link to a webpage. Requiring the information to be included directly in the notice and TPS contract summary ensures that customers receive relevant pricing information in a clear and accessible manner at the time they are evaluating their service options. The Board recognizes that certain newly introduced variable products may not yet have historical billing data available, therefore, the proposed rule permits that, where no historical variable rate data exists for a particular product, the TPS shall indicate that no historical data is available. Accordingly, the Board declines to modify the rule as suggested. The Board also declines to further define the phrase “both fixed and variable rates elements.” The proposed rules are intended to apply to contracts that include both fixed and variable pricing components, such as products that provide a fixed rate for a period of time and subsequently transition to a variable rate, or otherwise contain both fixed and variable pricing features. The Board believes that the existing language sufficiently describes the types of products subject to disclosure requirements and that additional definition is unnecessary.

N.J.A.C. 14:4-7.14 Billing Errors

47. COMMENT: RESA recommended that, if the billing errors referred to at new N.J.A.C. 14:4-7.14(b) are caused by LDC data, then the LDC should be required to pay the interest on both the money owed to the customer by the TPS due to overbilling or the money owed to the TPS by the customer due to underbilling.

RESPONSE: The Board is not aware of issues where the LDC has caused billing errors to TPS customers that are not corrected within two billing cycles. Therefore, the Board believes the proposed language should not be modified. If, however, a TPS incorrectly bills its customers and the TPS believes the incorrect billing was caused by errors made by the LDC (not estimated usage vs. actual usage, in and of itself), the TPS may bring this to the attention of Board staff. In addition, pursuant to N.J.A.C. 14:3-7.1(d), a public utility shall pay interest to customers when customers are overbilled as set forth in that section. However, the public utility is not paid interest when a customer is underbilled due to a billing error. Likewise, a TPS is not entitled to interest when a customer is underbilled due to a billing error.

48. COMMENT: RESA objects to the proposed language requiring TPSs to provide a report to the Board regarding billing errors if 10 or more customers are impacted in a 30-day period. Instead, the threshold should be at least 100 customers in a 30-day period because TPSs are handling thousands of customer bills per day. While TPSs strive to bill all customers accurately, a billing error impacting only 10 customers is *de minimis* and can be easily corrected through the normal course of business. The report would also make billing errors public, effectively penalizing a TPS for a very small number of billing errors despite issuing tens of thousands of bills accurately throughout the customer lifecycle.

RESPONSE: The Board believes the new reporting requirements are important, as they will bring light to the issue of TPS billing errors and how and when they are corrected. The Board considered RESA's concerns about the proper threshold for these reporting requirements and agrees that a threshold of 10 customers would be *de minimis* for a TPS that serves a large number of customers. However, the Board disagrees with RESA's recommendation to set a uniform threshold at 100 customers. The Board must maintain adequate visibility into patterns of billing inaccuracies to ensure timely identification and remediation of issues that may materially impact consumers. In order to ensure that the rule appropriately addresses billing errors impacting TPSs serving any number of customers, the Board is revising N.J.A.C. 14:4-7.14 upon adoption to calibrate the reporting trigger so that it captures non *de minimis* events while avoiding unnecessary reporting, by including thresholds that vary based on the size of the TPS's customer base. The Board believes that with this change the reporting requirement trigger will protect customers by identifying TPS billing errors and will also better allow the Board to focus on TPSs with non *de minimis* or excessive numbers of billing errors. This amendment modifies only the reporting threshold. It does not diminish existing consumer protections, alter the obligation that bills be accurate, or limit any enforcement mechanisms available to the Board. TPSs remain fully responsible for issuing accurate bills and for correcting any errors, and the Board retains full authority to investigate, require corrective actions, and pursue enforcement for non-compliance, as appropriate. Accordingly, the Board will make revisions to the reporting requirement designed to provide meaningful insight into billing errors while minimizing reporting burdens, thereby continuing to protect consumers.

49. COMMENT: Rate Counsel noted that it is generally supportive of the new provision at N.J.A.C. 14:4-7.14 and further recommended that interest should begin to accrue after one billing cycle. For many residential customers, overbilling can result in constrained cash flow, forcing customers to make difficult decisions between paying for utility service and other essential items and services. Additionally, Rate Counsel recommended that any overpayment be returned with interest at a rate equivalent to the average consumer credit card interest rate. Customers with constrained cash flow due to overpayment errors will likely be forced to leverage their personal credit cards to pay for essential services and products and should, thus, be compensated accordingly. Requiring such a level of interest to be included in customer refunds will incentivize TPS providers to ensure accurate accounting to avoid overcharging in the first place, as well as incentivize quick processing of refunds in the event of overbilling and thereby protect customers from further undue hardships.

RESPONSE: The Board thanks Rate Counsel for its support. The Board believes that setting the time period at two billing cycles will sufficiently incentivize TPSs who incorrectly bill customers to quickly process refunds to customers. Regarding interest, the Board proposed the interest rate at the rate prescribed at N.J.A.C. 14:3-3.5(d) to be consistent

with the interest rate that public utilities are required to pay residential customers for billing errors pursuant to N.J.A.C. 14:3-7.1(d).

50. COMMENT: Rate Counsel recommended that refunds should be in the form of on-bill credits, or if that method is impossible, a certified check or cashier's check. The use of gift cards for refunds should be prohibited. Gift cards often remain unused or include fees that detract from their value. They are also hard to trace and subject to frequent scams.

RESPONSE: The Board also believes that the bill credits should be given to customers in the form of on-bill credits, when that is possible. However, the Board understands that in some instances, the error may be found after the customer is no longer a customer of the TPS and, therefore, bill credits may not be possible. The Board did not intend for the proposed language to allow the TPS to provide the refunds in the form of gift cards and the Board agrees that it would detract from the value of the refund if the TPS were permitted to provide the refunds to customers in the form of gift cards. However, the Board believes that checks would be an acceptable form of payment and that the checks need not be certified checks. Therefore, the Board has changed N.J.A.C. 14:4-7.14 to clarify that the payments shall be made as bill credits when possible, or otherwise made by check or money order.

51. COMMENT: NJUA stated that effecting the new billing requirements provided through this rulemaking will result in new administrative costs to the utilities and, therefore, requested that the Board include a provision that specifically allows utilities recovery of such costs.

RESPONSE: The Board believes the proposed amendments are vital to the protection of all utility customers. The Board believes that the commenters have not demonstrated that a specific recovery mechanism or specific language regarding cost recovery is necessary for these costs. It is a basic ratemaking principle that utilities should be permitted the opportunity to recover prudently incurred costs associated with serving customers. Each utility already has the ability to file a base rate case, in which the utility's complete financial condition can be evaluated, when its costs increase to the point where the utility is not able to earn a fair rate of return.

52. COMMENT: RESA stated that, if interest must be paid on customer overpayments to TPSs, the BPU's proposed language currently ties that calculation to the date the error first appeared. RESA recommended that this language be expanded to allow calculation from either: (1) the date the error first appeared; or (2) the date the error was first reasonably identifiable, whichever is later—particularly where the cause is outside the supplier's control. In addition, a look-back limit of 60 days should be established for billing error disputes. If notification is made after this period, no bill adjustment should be required.

RESPONSE: The proposed rules provide that interest will be paid to the customer, 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. This relieves the TPS of the requirement to pay interest if they are able to identify and correct the error quickly. Expanding this language to "the date the error was first reasonably identifiable, whichever is later" or creating a look-back limit of 60 days would relieve a TPS from paying interest to the customer in instances where they did not identify and correct the error for an indefinite amount of time. This would not compensate the customer for the time period that the customer was harmed by the billing error. The Board believes this would be unfair to the overcharged customer and the Board declines to make the proposed edit.

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 1 (general provisions and definitions), 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 sections of the rules readopted 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.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:4.

Full text of the adopted amendments and new rules follows (additions to the proposal indicated in boldface with asterisks ***thus***; deletions from the proposal indicated in brackets with asterisks ***[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 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 who is licensed by the Board 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. 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 <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 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)]* *September 8, 2027***.

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

(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 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)]* *September 8, 2027***.

(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, 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, personnel and administrative costs, and costs of other assets utilized and 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), (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 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 offering, including service charges and other charges, with those of the following other purveyors of the same type(s) of service:

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 surety bonds that meet 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

<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 the surety bond(s) in the amount of \$250,000 for 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 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 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 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)-(e) (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 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:

1.-5. (No change.)

6. Documentation that the licensee has maintained and continues to maintain the surety bond(s) required 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 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:

	Electric Power Supplier License	Gas Supplier License	Energy Agent, Private Aggregator, and/or Energy Consultant Registration
Nonrefundable Initial Application Fee	\$350.00	\$350.00	\$750.00
Initial License Fee refunded if license is denied	\$1,500	\$1,200	\$0
Nonrefundable Annual Information Update Fee	\$750.00	\$600.00	\$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 \$3,400. Similarly, an applicant that applies for more than one license shall post a separate surety bond for 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 \$750.00 and the initial fee for an Energy Agent and Energy Consultant would be \$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, 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.)

(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.)

(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 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 pursuant to (c) above shall be sent to customers as follows:

1. The LDC shall send the notice required 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;

(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;

(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 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;

(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;

(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 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) Where a TPS contract contains a fixed price element, the TPS shall provide notice to the customer at least 30 days prior to the expiration of the fixed price for electric generation service or gas supply service, informing the customer of the date upon which the fixed price element of the service contract 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]** **caused** 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^[.] **as follows:*

1. For a TPS serving less than 60 customers, the TPS must file a report when the TPS incorrectly bills 15 or more of its customers over a period of 30 days or less; and

2. For a TPS serving 60 or more customers, the TPS must file a report when the TPS incorrectly bills the lesser of 25 percent or more of its customer base or 100 or more of its customers over a period of 30 days or less.

(b) **[This]** **The** report **required pursuant to (a) above** 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)]* (c) 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.

** (d) The payment required pursuant to (c) above shall be made to customers in the form of on-bill credits whenever possible. Where not possible, payments shall be returned to the customer by check or money order. Payments shall not be made by gift card, digital currency, or other non-cash equivalent.**

OTHER AGENCIES

(a)

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Procurement of Architectural, Engineering, Land Surveying, and Related Professional Consulting Services

Readoption: N.J.A.C. 19:38C

Proposed: April 20, 2026, at 58 N.J.R. 1427(a).

Adopted: August 20, 2026, by the New Jersey Schools Development Authority, Manuel M. DaSilva, Chief Executive Officer.

Filed: August 20, 2026, as R.2026 d.104, **without change.**

Authority: P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k)

(rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et

seq.); P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.) (enabling

statutes); and P.L. 1997, c. 399 (N.J.S.A. 52:34-9.1 et seq.)

(related authority).

Effective Date: August 20, 2026.

Expiration Date: August 20, 2033.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The readopted rules implement a State statute, specifically P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.). There are no Federal standards or requirements applicable to the rules. A Federal standards analysis, therefore, is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:38C.

(b)

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Procurement of Goods and Services

Readoption: N.J.A.C. 19:38D

Proposed: April 20, 2026, at 58 N.J.R. 1428(a).

Adopted: August 20, 2026, by the New Jersey Schools Development Authority, Manuel M. DaSilva, Chief Executive Officer.

Filed: August 20, 2026, as R.2026 d.105, **without change.**

Authority: N.J.S.A. 52:18A-238.k.

Effective Date: August 20, 2026.

Expiration Date: August 20, 2033.