PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Energy Competition

Energy Licensing and Registration

Proposed Amendments: N.J.A.C. 14:4-1.2 and 5


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

BPU Docket Number: AX19091003.


Comments may be submitted through April 3, 2020, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.nj.gov, or on paper to:

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: AX19091003
44 S. Clinton Ave.
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary
The Board of Public Utilities (“BPU” or “Board”) is proposing amendments at N.J.A.C. 14:4, which generally concern energy competition, specifically to Subchapter 5, Energy Licensing and Registration. On May 10, 2019, Governor Phil Murphy signed bills S. 604 and S. 605 (2018) (P.L. 2019, c. 100 and 101) (the Act) providing that third-party electric power and natural gas supplier licenses issued by the Board may be renewed without expiring if certain conditions are met. The effective date of the Act was July 9, 2019.

The purpose of the rule amendments is to conform the rules to the new laws. The Board’s amendments reflect that a license shall not expire, so long as the licensee pays, to the Board, a license renewal fee accompanied by a timely and complete annual information update on a form prescribed by the Board. The renewal fee and annual information update form must be submitted within 30 days prior to the anniversary date of the last approved licensing application. In addition, the amendments are also applied to registrants, for consistency. The amendments also reflect other updates to reflect current Board policies. To this end, the Board proposes the following amendments:

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

The Board proposes to add definitions for “self-supply load serving entity end-user customer” and “self-supply gas end-user customer” and remove the definition for “clean power marketer” because clean power marketers have been removed entirely from this chapter as a result of the termination of the Clean Power Choice Program under the BPU New Jersey Clean Energy Program.

**N.J.A.C. 14:4-5.1(c)**
Proposed new subsection (c) allows self-supply load serving entity end-user customers and self-supply gas end-user customers to seek a waiver of filing for a license as a third-party supplier provided certain conditions are met.

**Recodified N.J.A.C. 14:4-5.1(i)**

Recodified paragraph (i)3 is proposed for amendment to incorporate references to energy consultant registration because this subsection sets forth the requirement to providing surety bonds, which applies to third-party suppliers, as well as energy consultants.

**Recodified N.J.A.C. 14:4-5.1(l)**

Proposed amendments clarify the Board’s public treatment of information submitted to the Board in initial applications or annual information updates and extends the types of information to be kept confidential to include customer count, market share, and financial statements, unless already publicly available Federally or in other states or jurisdictions.

**N.J.A.C. 14:4-5.2(b)2**

Proposed amendments clarify what constitutes an acceptable street address to satisfy the requirement that suppliers must maintain an office in New Jersey and further clarify that a New Jersey registered agent address shall not satisfy the New Jersey office requirement.

**New N.J.A.C. 14:4-5.2(c)2**

Proposed new paragraph (c)2 establishes a requirement that projected pricing information shall be provided on a supplier’s Internet website pricing webpage and shall be accessible to residential and small commercial customers, so that customers may make informed choices regarding the purchase of electric generation or gas supply service from that supplier. This paragraph also limits the scope of personal information that customers must provide as a
prerequisite to gain access to supplier pricing information on the website. The pricing information provided must be accurate, properly maintained, and updated regularly, so that it is useful to customers in making informed choices about suppliers. A direct link (Pricelink) to the suppliers’ website page with the posted projected pricing information shall be provided with initial applications, annual information update forms, and within 10 days of the effective dates of changes to the Pricelink. This will allow the BPU to post the current Pricelink on its New Jersey Power Switch website.

**New N.J.A.C. 14:4-5.2(c)4iii and iv**

Additional requirements are placed on a supplier’s regulatory affairs representative to improve communications with the Board, so that applications and updates are processed more efficiently.

**N.J.A.C. 14:4-5.3(b)5**

The application form is proposed for amendment to require a sample material terms and conditions summary page, which shall be available on a supplier’s website.

**N.J.A.C. 14:4-5.3(b)14**

This paragraph is proposed for amendment to clarify that the sample contract and other material submitted as part of the application complies with all “standards, rules, and regulations applicable to the license,” in addition to N.J.A.C. 14:4-5.

**New N.J.A.C. 14:4-5.3(b)15 and 16**

The proposed new paragraphs require applications to include certifications of compliance with Federal Trade Commission (FTC) Telemarketing Sales rules and regulations, as well as door-to-door solicitation rules and regulations at the Federal, state, and municipal levels. Third-
party suppliers who perform telemarketing currently provide the FTC certification. By including
this certification in the rules, the Board is formalizing this requirement.

**N.J.A.C. 14:4-5.4(a), (b), and (c)**2

As renewal applications will no longer be required pursuant to certain provisions in the Act, this section is proposed for amendment to add language referencing the new Annual Information Update Form. When reviewing an initial application for a license or the Annual Information Update Form, staff may request additional information or information that may be missing in the application or update. The Board clarifies that Board staff will provide notice of cancelling the initial application or of other actions, in the case of the Annual Information Update Form filing, if additional information is not submitted within 45 days from the date of the request to submit the additional information.

**N.J.A.C. 14:4-5.4(f)**

The deadline by which an applicant must submit its surety bond is established as 60 days after the filing of an initial application, but no later than two weeks prior to the approval date of the application.

**N.J.A.C. 14:4-5.4(i)**

This subsection is replaced to establish deadlines to ensure that surety bonds are renewed at least 30 days prior to a bond’s scheduled expiration.

**New N.J.A.C. 14:4-5.5(g)**
The Board proposes to establish deadlines for when a licensee or registrant shall notify Board staff of changes to contact information, so the Board staff may maintain current and accurate information regarding the licensee or registrant.

**Recodified N.J.A.C. 14:4-5.5(h)**

A further amendment indicates the timeframe for the submission under this subsection is 30 “calendar” days, or as prescribed at N.J.A.C. 14:4-7.10A, whichever is earlier.

**Recodified N.J.A.C. 14:4-5.5(i)**

Notification requirements of any material changes in the organizational structure or operation of a licensee’s business are incorporated to improve consistency with other sections of this chapter. A new requirement that any changes in the company structure shall be submitted with the supplier’s application or licensing shall be sent to customers.

**N.J.A.C. 14:4-5.6(a)**

Amendments are proposed to implement the statutory requirement that a license no longer expires, as long as the licensee has submitted a timely and complete Annual Information Update Form and the annual licensing fee. The amendments reiterate that the Board has authority to deny, suspend, or revoke a license at any time.

**N.J.A.C. 14:4-5.6(b)**

The Board proposes to amend the language to reflect that under the new law a license shall expire due to non-compliance with this subchapter.

**N.J.A.C. 14:4-5.7(a) and (b)**

The proposed amendments set forth the required documents needed to renew a license.

**N.J.A.C. 14:4-5.7(c)**
The proposed amendments reiterate that the Board has authority to deny, suspend, or revoke a license at any time.

**N.J.A.C. 14:4-5.7(d) and (f), (g), and (h)**

The proposed amendments implement the statutory requirement that entities submit an Annual Information Update Form and annual license fee to maintain licensure as a third-party supplier.

**N.J.A.C. 14:4-5.8(g)**

The proposed amendments implement the statutory requirement that registrations do not expire, as long as the registrant timely files a complete annual information update form and pays the annual registration fee and other documents required by the Board and this subchapter.

**New N.J.A.C. 14:4-5.8(j)**

The proposed new subsection provides that additional registrant requirements are contained at N.J.A.C. 14:4-5.5(g), (h), and (i), in regards to required notices to be submitted to the Board.

**N.J.A.C. 14:4-5.9**

The proposed amendments implement the statutory requirement that registrations do not expire, as long as the registrant timely files a complete annual information update form and pays the annual registration fee.

**N.J.A.C. 14:4-5.9(e)**

The proposed amendments set forth deadlines and the process by which Board staff may request additional information and that the registration may be suspended or revoked if requested information is not delivered to the Board within 45 days of such a request.
N.J.A.C. 14:4-5.9(f)

The proposed amendments implement the statutory requirement that registrations do not expire, as long as the registrant timely files a complete annual information update form and pays the annual registration fee.

N.J.A.C. 14:4-5.11(b)3

The proposed amendments provide clarity regarding what constitutes an acceptable street address for the required New Jersey Office provision. The proposed amendments further establish that a New Jersey registered agent address shall not constitute as the New Jersey Office for Energy Consultant registrants for purposes of this subchapter.

N.J.A.C. 14:4-5.11(d) and (e)

The proposed amendments implement the change in the law requiring that registrations do not expire, as long as the registrant files a complete Annual Information Update Form and pays the annual registration fee within 30 days of the license expiration.

N.J.A.C. 14:4-5.12(a) and (b)

The fees chart and description of fees is proposed for amendment to update the charts and to make them easier to understand. The sample calculation is also proposed to be corrected along with the addition of another example.

New N.J.A.C. 14:4-5.13(d)

The proposed new subsection restates that the Board has authority to deny, suspend, or revoke a license at any time.

General Changes
Throughout Subchapter 5, amendments are proposed to update cross-references based on amendments discussed above and to update Board contact information. Further, amendments are proposed throughout Subchapter 5 to remove references to the Clean Power Marketer Program and to remove references to extensions of license terms.

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

Social Impact

The Board believes that the proposed amendments will have a beneficial social impact by continuing to ensure that New Jersey energy customers will receive the benefits of a competitive marketplace. The proposed amendments to remove the annual expiration for licenses will provide more continuity of the licenses and registrations from year-to-year for third-party suppliers and registrants, as long as the licensee and registrant timely files a complete annual update form and appropriate fees to maintain their licenses and registrations. The proposed amendments will allow for a more efficient processing of filed annual update forms.

The proposed amendments will continue to ensure that customers have access to up-to-date website pages for accurate pricing information so they can make informed choices regarding the purchase of electric generation service or gas supply service from a supplier, as well as updated third-party supplier customer contact information.

Economic Impact

The proposed amendments are not anticipated to have a significant economic impact. The proposed amendments continue to require licensees and registrants to provide annual update...
information forms instead of renewal applications and the same annual fees to maintain licenses and registrations. The Board believes that the proposed changes will have an overall positive economic impact by continuing to encourage competition in energy supply services. The Board believes that the continued annual cost of compliance with the rules, including the proposed amendments, does not impose any economic hardship on entities regulated under the rules, nor expects any significant impact to the economy as a result of the proposed amendments.

**Federal Standards Statement**

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed amendments to the energy licensing and registration rules have no Federal analogue and are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, a Federal standards analysis is not required for the proposed amendments.

**Jobs Impact**

It is not anticipated that the proposed amendments will affect job creation or loss in any sector of the State’s economy.

**Agriculture Industry Impact**

The proposed amendments, which will update the rules to bring them into compliance with the Act are not anticipated to have any impact upon the agricultural industry.

**Regulatory Flexibility Statement**
A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. The proposed amendments do not impose additional reporting, recordkeeping, or other compliance requirements on small businesses operating renewable electric generation facilities in New Jersey or in the rest of the PJM region. Accordingly, no regulatory flexibility analysis is required.

**Housing Affordability Impact Analysis**

The Board does not expect the proposed amendments to have an impact on the affordability of housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the regulation of energy licensing and registration for third-party supplies, energy agents, energy consultants, and private aggregators.

**Smart Growth Development Impact Analysis**

Since the scope of the proposed amendments are limited to energy licensing and registrations, for third-party suppliers and energy agents, energy consultants, and private aggregators, respectively, the proposed amendments will have no impact on smart growth in New Jersey. It is unlikely that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Board has evaluated this rulemaking and determined that the proposed amendments governing energy licensing and registrations, will not have an impact on pretrial detention,
sentencing, probation, or parole policies concerning adults and juveniles in the State.

Accordingly, no further analysis is required.

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

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

14:4-1.2 Definitions

The following words and terms, when used in this chapter or in 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.

…

[“Clean power marketer” or “CPM” means a person who participates in the Board’s clean power choice program by purchasing and retiring Renewable Energy Certificates (RECs) on behalf of a subscribing customer for an agreed-upon price that is added onto the customer’s utility bill.]

…

“Self-supply gas end-user customer” means a commercial or large volume gas customer in New Jersey with a cumulative peak load greater than 5,000 therms. The self-supply gas end-user customer shall:
1. Arrange for, and directly manage, its own purchase of gas supply service and delivery of such supplies through use of the intrastate transmission capacity services to the city gate in the wholesale market;

2. Arrange for, and manage delivery of, the gas supply service through use of the local distribution company’s distribution system to the self-supply gas end-user customer’s facility and solely for the self-supply end-user customer’s own consumption at that facility; and

3. Not purchase and sell gas supply service and/or arrange for, or manage, the delivery of gas supply service for sale to an end user, retail customer, or to a third-party supplier in New Jersey.

“Self-supply load serving entity end-user customer” or “Self-supply LSE” means a commercial or large volume retail electric end-user customer in New Jersey with a cumulative peak load of greater than 50 kilowatts. The Self-supply LSE shall:

1. Be licensed by PJM and the Federal Energy Regulatory Commission as a load serving entity;

2. Be a member of PJM for the purpose of purchasing electric energy and capacity;

3. Arrange for, and directly manage, its own purchase of supplies of electric power and energy and use of transmission and ancillary services in the wholesale market;

4. Arrange for, and manage delivery of, the electric generation service and energy over the transmission system, and local distribution companies distribution system to the Self-supply LSE’s facilities solely for the Self-supply LSE’s own consumption at those facilities; and
5. Not purchase and sell electric generation service and/or arrange for or manage the delivery of electric generation service for sale to an end-user, retail customer, or to a third-party supplier in New Jersey.

...

SUBCHAPTER 5. ENERGY LICENSING AND REGISTRATION

14:4-5.1 Scope; general provisions

(a) This subchapter shall apply to the following, as these terms are defined at N.J.A.C. 14:4-1.2:

1.2 - 3. (No change.)

4. Private aggregators; and

[5. Clean power marketers; and]

[6.] 5. Local distribution companies (LDCs).

(b) A BGS provider is not subject to this subchapter, [as] in regard[s] to those activities related to providing BGS services.

(c) A self-supply load serving entity end-user customer (Self-supply LSE) and/or self-supply gas end-user customer may request a one-time waiver of the license filing requirement from the Board. Copies of the waiver request and all supporting documentation shall be provided to the local distribution company and the Division of Rate Counsel. The application and supporting documentation must demonstrate compliance with the definition of Self-supply LSE or self-supply gas-end user customer. The Self-supply LSE or self-supply gas end-user customer is not excused from complying with
applicable Board requirements and rules for suppliers including, but not limited to, heating value, gas purity, and other supply quality requirements, as well as applicable clean energy supplier requirements, or local electric distribution, or local gas distribution requirements. An entity whose waiver is granted shall not be required to file for an electric power supplier license and/or gas supplier license or to renew an existing electric power supplier license or gas supplier license. A Self-supply LSE and self-supply gas end-user customer shall provide notification within 10 days of any change in the customer’s status that would affect the customer’s classification as a Self-supply LSE or self-supply gas end-user customer to the Board, the local distribution company, and Division of Rate Counsel. In such circumstances, the Board may revoke the customer’s status as a Self-supply LSE and self-supply gas end-user customer and require either a new waiver be filed with the Board to reinstate the customer’s status as a Self-supply LSE or self-supply gas end-user customer; or an initial application be filed with the Board to become a third-party supplier, whichever may be applicable based upon the changes in the customer’s status.

[(c) (d) (No change in text.)

[(d)] (e) A person shall not do, or offer to do, any of the following, without first obtaining an electric power supplier license[,] or a gas supplier license [or a clean power marketer license], as applicable, under this subchapter:

1.-2. (No change.)

3. Enroll customers for, or arrange for, the provision of electric generation service or gas supply service for use by retail customers; or
4. Contract for, or otherwise assume legal responsibility to provide, electric generation service or gas supply service for use by retail customers[; or].


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

[(h)] (i) To obtain an electric power supplier[,] or gas supplier [or clean power marketer] license, or [to register as] obtain an energy agent (including an energy consultant) or private aggregator registration, a person shall:

   1. Submit a completed application that meets the requirements at N.J.A.C. 14:4-5.3, [or 5.6] 5.8, or 5.11, as applicable;

   2. (No change.)

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

[(i)] (j) (No change in text.)

[(j)] (k) 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
See the BPU website for further contact information regarding licensing.

[(k) (l) All information provided to BPU as part of the process of obtaining or [renewing] updating an electric power supplier[,] or gas supplier [or clean power marketer] license, or obtaining [registration as] or updating an energy agent (including an energy consultant) or private aggregator registration, shall be deemed public information, except for the following:

1. (No change.)

2. Information for which a confidentiality claim has been filed under the Board's OPRA rules, which has been determined to be confidential; [and]

3. Sales volumes and revenues sorted by customer class[.];

4. Customer count;

5. Market share; and

6. Financial statements, unless already publicly available Federally or in other states or jurisdictions.

Recodify existing (l)-(m) as (m)-(n) (No change in text.)

14:4-5.2 Basic requirements for an electric power supplier[,] or gas supplier [or clean power marketer] license

(a) An electric power supplier[,] or gas supplier [or clean power marketer] license shall be issued only if an applicant meets the applicable requirements in this section, in addition to all other applicable requirements in this subchapter.
(b) To be eligible for an electric power supplier or gas supplier license, an applicant shall maintain a physical office in New Jersey for the purposes of accepting service of process, maintaining the records required under this subchapter, and ensuring the licensee's accessibility to State agencies, consumers, and gas and electric public utilities. To satisfy this requirement, an applicant shall:

1. (No change.)

2. Provide the street address of the physical New Jersey office. A post office box or rented mail-receiving space at a mail service store, virtual office, or the New Jersey registered agent address shall not constitute a physical New Jersey office for the electric power supplier or gas supplier.

(c) The applicant shall document that it will make itself accessible to customers and regulators by maintaining the following:

1. (No change.)

2. A page on the supplier’s Internet website that shall include projected price comparison information that will enable residential customers and commercial electric customers with a cumulative peak load of 50 kilowatts or less, and/or commercial gas customers with a cumulative peak load of 5,000 therms or less to make informed choices regarding the purchase of electric generation service or gas supply service from that supplier. This website page shall contain current and accurate pricing information, and shall be maintained and updated by the supplier regularly. Customers shall have access to the posted information without being required to provide personal customer information other than the following: zip code, distribution company, type of service (electric or gas),
and customer class (residential or small commercial). The direct Internet pricing link to the supplier’s website page with the posted information shall be provided to the Board with the initial application, Annual Information Update Form, and within 10 days of the effective date of changes to the Internet link;

[2.] 3. (No change in text.)

[3.] 4. A regulatory affairs representative, who is available by telephone during normal New Jersey business hours, and who will do the following:

i. Assist Board staff in pursuing investigations on behalf of the Board and/or the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety; [and]

ii. Facilitate the resolution of billing complaints and other problems[.];

iii. Assist Board staff in obtaining additional information necessary to process applications and/or Annual Information Update Forms; and

iv. Assist Board staff in answering questions regarding licensing information and to address other regulatory issues that may arise.

(d) An automated telephone service shall not, by itself, satisfy the requirements in [(c)2 and 3] (c)3 and 4 above. Rather, the applicant shall make it possible for customers, Board staff, and/or Division of Consumer Affairs staff, to speak to an individual. It is not necessary that these representatives be located in New Jersey. However, a representative shall be available to Board staff and/or customers within 24 hours, if necessary, to resolve a problem.

(e)-(g) (No change.)
14:4-5.3 Application contents – initial electric power supplier[,] or gas supplier [or clean power marketer] license

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

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

1. (No change.)

2. The name of the registered New Jersey [energy] agent that the business will retain, including the agent's physical New Jersey office address;

3.-5. (No change.)

6. Samples of documents that the applicant will use in the course of business, including a sample residential contract and material terms and conditions summary page;

7.-12. (No change.)

13. If the application is for an electric power supplier or gas supplier license, a certification, signed by an officer of the corporation, stating that the applicant is in compliance with the retail choice consumer protection rules at N.J.A.C. 14:4-7; [and]
14. A certification, under oath, of truth and accuracy, signed by a corporate officer, partner, sole proprietor, or other appropriate legal representative of the applicant, attesting to the accuracy of the contents of the application, and to the fact that the sample contract and other material submitted as part of the application complies with all standards and rules applicable to the license and with this subchapter[.];

15. A certification, under oath, stating that the applicant is in compliance with all Federal Trade Commission (FTC) Telemarketing Sales Rules, including 16 CFR 310.4; and

16. A certification, under oath, stating that the applicant is in compliance with door-to-door Federal, State, and municipal solicitation standards, rules, and regulations.

(c) (No change.)

14:4-5.4 Board review procedure for an initial application for an electric power supplier[.] or gas supplier [or clean power marketer initial license or renewal] and for an Annual Information Update Form

(a) This section sets forth the procedures for acceptance and processing of an initial application and for an Annual Information Update Form for an electric power supplier[.] or gas supplier [or clean power marketer] license [and also for renewal of a license].

(b) Within 60 days after receiving an application for a license or [renewal] Annual Information Update Form under this subchapter, Board staff shall notify the applicant if additional information or investigation is needed to determine whether the applicant has met the requirements of this subchapter.

(c) If Board staff requests additional information under (b) above, the following shall apply:
1. (No change.)

2. If the additional information is not submitted within this 45-day period, Board staff shall cancel the initial application and provide notice of the cancellation to the applicant or provide notice of potential actions by the Board in the case of the Annual Information Update Form; and

3. (No change.)

(d) (No change.)

(e) Board staff shall notify the applicant when the issuance [or renewal] of a license is approved.

(f) [Upon receipt of the notice unless issued under (e) above] Within 60 days of filing an initial application, but no later than two weeks prior to the approval date of the application, the applicant shall submit a surety bond for the [following] amount[1.] of $250,000 for an electric power supplier license or [a] gas supplier license[; or].

[2. $25,000 for a clean power marketer license.]

(g) The surety bond required under this section shall be:

1. (No change.)

2. Posted for a term that will extend for at least as long as the license remains in effect[, including any time during which the license term is extended under N.J.A.C. 14:4-5.6(a)].

(h) (No change.)

[i] Upon the applicant's posting of the surety bond required under this section, the electric power supplier, gas supplier or clean power marketer license or license renewal, shall be issued.

(i) Thirty days prior to the expiration of the surety bond, a licensee must file a renewed surety bond for at least the next annual period.
14:4-5.5 Requirements that apply after a license or registration is issued

(a) Once licensed, an electric power supplier[,] or gas supplier [or clean power marketer] shall meet the requirements in this section. Failure to do so shall subject the licensee to penalties and to Board proceedings for revocation[,] or suspension[, or denial of a license renewal].

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

(d) A licensee shall maintain the following records for [at least] a minimum of three years, and shall make them available to Board staff within 48 hours after a request. These records shall be maintained in a form that can be inspected by Board staff or transmitted to Board staff within 48 hours after a request:

1. Records, in summary form, of energy contracts or transactions entered into with New Jersey customers, and of services provided by the supplier [or clean power marketer] to New Jersey customers;

2. Copies of all contracts or other writings entered into by the supplier [or marketer], authorizing the supplier [or clean power marketer] to provide service to one or more New Jersey customers; and

3. (No change.)

(e) (No change.)

(f) A licensee or energy consultant shall maintain the surety bond required under N.J.A.C. 14:4-5.4 and 5.11 throughout the duration of the license[,] including any time during which the license term is extended under N.J.A.C. 14:4-5.6(a) or registration. The Board may increase
the bond amount required 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 accordingly.

(g) A licensee or registrant shall notify Board staff in writing no later than 10 days after any changes in contact information, including the name of the regulatory contact, the New Jersey mailing address, email, and phone numbers of company representatives and regulatory contacts.

[(g)] (h) A licensee or registrant shall notify Board staff in writing within 30 calendar days after any material change in the organizational structure or operation of a licensee's or registrant's business or at the time prescribed at N.J.A.C. 14:4-7.10A, whichever is earlier. If the change affects compliance with this chapter or any other Board rule or order, Board staff shall require the licensee or registrant to file an update describing the change, for approval by Board staff.

[(h)] (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. If the name of the resulting company remains the same, the licensee or registrant shall submit a licensing update [at least] within 30 calendar days [prior to] after the change, including any information about the new entity that is necessary for Board staff to evaluate the entity's compliance with this chapter, including information regarding any changes in the company's services or customer population;
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 [at least] within 30 calendar days [before the name change] after the reorganization, restructuring, merger, or acquisition, and shall meet all of the requirements that would apply if the entity had never held a license or registration, including application fees and, for licensees and energy consultants, the issuance of a new surety bond; and

3. [The] A licensee or registrant shall continue to serve its existing customers pending the Board’s final decision on the license or registration update or application, unless otherwise directed by Board staff.

[(i) (j)] If a licensee or registrant fails to comply with any applicable requirement in (f), (g), [or] (h), or (i) above, the licensee or registrant shall:

1.-3. (No change.)

14:4-5.6 Term and expiration of an electric power supplier[,] or gas supplier [or clean power marketer] license

(a) An electric power supplier[,] or gas supplier [or clean power marketer] license shall [be valid for one year from the date of issue, except where a licensee] not expire if the licensee complies with N.J.A.C. 14:4-5.2, and has submitted a complete [renewal application] Annual Information Update Form within the 30-day deadline [in] at N.J.A.C. 14:4-5.7(a)[, in which case the existing license shall not expire until a decision has been reached upon the renewal application]. Nothing shall limit the authority of the Board to deny, suspend, or revoke a
license at any time, consistent with the provisions of P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.).

(b) If a license expires [without being extended under (a) above] due to non-compliance with this subchapter, or if a surety bond expires, the contract termination provisions at N.J.A.C. 14:4-7.10(e) shall apply, and the licensee shall:

1.-3. (No change.)

4. Submit a complete initial application for a new license [(not a renewal)] within 45 days after license expiration, and/or submit a new surety bond within 45 days after surety bond expiration, as applicable.

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

14:4-5.7 Required contents of [an application for renewal] the Annual Information Update Form of an electric power supplier[,] or gas supplier [or clean power marketer] license

(a) An [applicant for renewal of an] electric power supplier[,] or gas supplier [or clean power marketer license] shall submit a complete [application for renewal] Annual Information Update Form, as prescribed by the Board and in accordance with this section, at least 30 days before the [expiration] anniversary date, which is the date of the [existing license] last approved licensing application or date assigned by the Board.

(b) Board staff shall not accept an [application for a license renewal] Annual Information Update Form that is submitted after the 30-day deadline in (a) above. If the [renewal application] Annual Information Update Form is incomplete, or is not submitted within the
30-day deadline in (a) above, the initial license shall expire [at the end of its term], and the provisions at N.J.A.C. 14:4-5.6 for expiration of a license shall apply.

(c) In accordance with N.J.A.C. 14:4-5.6(a), if a licensee has submitted a complete [renewal application] Annual Information Update Form within the 30-day deadline in (a) above, the [existing] license shall not expire [until a decision has been reached upon the renewal application.], unless otherwise determined by the Board. Nothing shall limit the authority of the Board to deny, suspend, or revoke a license at any time, consistent with the provisions of P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.).

(d) An [application for renewal of] Annual Information Update Form for an electric power supplier[,] or gas supplier [or clean power marketer] license shall include the following types of information:

1. Any changes to the information submitted in the licensee's most recent application for an initial license or [license renewal] Annual Information Update Form;

2.-3. (No change.)

4. Information regarding the licensee's sales and revenue, by month and customer class, during the [term of the license that is being renewed] annual period since the most recent application for an initial license or Annual Information Update Form;

5.-6. (No change.)

7. Any other information necessary to enable Board staff to evaluate the licensee's continued compliance with the license being [renewed, or with this subchapter] updated;

8. If the [application] Annual Information Update Form is for an electric power supplier or gas supplier license, a certification, signed by an officer of the corporation, stating
that the applicant is in compliance with the retail choice consumer protection rules at N.J.A.C. 14:4-7;

9. (No change.)

10. Documentation that a notice has been sent to all LDCs in whose territory the licensee will do business, stating that the initial application or Annual Information Update Form has been submitted to the Board. This documentation may be in the form of a U.S. Postal Service Certified Mail Receipt, a printed copy of an [e-mail] email from the LDC stating that it received the notice from the TPS or by other means approved by Board staff in writing prior to sending the notice, which provides equivalent documentation of such notice.

(e) Bonding requirements for licenses [renewals] shall be commensurate with the amount of business that the licensee has conducted in New Jersey under the expiring license.

(f) Board staff shall use the procedures at N.J.A.C. 14:4-5.4 to accept and review an [application] Annual Information Update Form for [renewal of] an electric power supplier[ ,] or gas supplier license [or clean power marketer license].

(g) Once [a license has been renewed] an Annual Information Update Form has been filed with the Board, the licensee shall, within 10 days after the [renewal is issued] filing, provide a copy of the [renewal] update to all LDCs within whose territory the licensee provides service.

(h) If Board staff discovers after [issuance of a renewal] the filing of the Annual Information Update Form that any part of the [application] update was inaccurate or noncompliant with this chapter, the Board is not foreclosed from bringing an enforcement action against the licensee for the inaccuracy or noncompliance, including suspension or revocation of the license.
14:4-5.8 [Registration] **Initial registration** procedure-energy agent or private aggregator

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

(g) A registration obtained under this subchapter shall [be valid for one year from the date of issue] **not expire**, so long as the registrant pays to the Board, within 30 days before the anniversary date, which is the date of the last approved registration application or the date assigned by the Board, an annual registration fee, as determined by the Board, accompanied by an annual information update on a form prescribed by the Board.

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

(j) Once registered, an energy agent, energy consultant, or private aggregator shall meet the requirements set forth at N.J.A.C. 14:4-5.5(g), (h), and (i).

14:4-5.9 Registration [renewal-energy] **annual information update-energy** agent, energy consultant, or private aggregator

(a) A registered energy agent, [(including a registered] energy consultant[]), or registered private aggregator shall submit [a registration renewal form] **an Annual Information Update Form** at least 30 days before the [expiration] **anniversary** date of the [existing] **last approved** registration or date assigned by the Board, accompanied by a registration renewal fee set forth at N.J.A.C. 14:4-5.12.

(b) If a registrant fails to submit a complete [registration renewal form] **Annual Information Update Form** within the 30-day deadline in (a) above, all of the following shall apply:

1. (No change.)
2. Board staff shall not accept a registration [renewal] Annual Information Update Form; and

3. The former registrant shall not act as, or represent themselves to others as, an energy agent, energy consultant, or private aggregator, as applicable, until the former registrant completes and submits a new registration application, accompanied by the fee for an initial registration, which is approved in accordance with this subchapter.

(c) If a registrant has filed a complete [renewal application] Annual Information Update Form accompanied by all appropriate fees in the time required under (a) above, the applicant’s existing registration shall not expire [until the renewal application is acted upon by the Board].

(d) The [registration renewal form] Annual Information Update Form shall require updates to the information in the original registration [form] application or most recent Annual Information Update Form.

(e) If Board staff [does not notify] notifies the registrant that additional information or investigation is needed, [the registration renewal shall be reviewed for approval or denial.] the registrant shall have 45 days to supply any requested information. If the registrant does not submit the requested information within 45 days after the date of the notice issued, the Board may revoke or suspend the registration.

(f) A registration [renewal] obtained under this subchapter shall [be valid for one year from the date of issue] not expire, so long as the registrant pays to the Board, within 30 days before the anniversary date of the last approved registration application or date assigned by the Board, an annual registration fee, as determined by the Board, accompanied by an annual information update on a form prescribed by the Board.
14:4-5.10 LDC responsibilities

(a) (No change.)

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

1. Electric generation service for use by its retail customers; or

2. Gas supply service for use by its retail customers; or

3. Clean power service for use by its retail customers.

(c) An LDC shall not do business with a person performing activities described in N.J.A.C. 14:4-5.1(f) or (g) or (h), that is, acting as an energy agent, energy consultant, or aggregator, unless the person has a valid registration under this subchapter.

(d) (No change.)

14:4-5.11 Registration procedure-energy consultant

(a) (No change.)

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

1.-2. (No change.)

3. Documentation that the person maintains an a physical office in New Jersey in accordance with N.J.A.C. 14:4-5.2(b). A post office box, rented mail-receiving space at a mail
service store, virtual office, or a registered agent address shall not constitute a physical New Jersey office for energy consultants.

(c) (No change.)

(d) If a registration as an energy consultant is submitted simultaneously with a registration as an energy agent, there shall be no additional application fee for the energy consultant registration. However, if the registrations are submitted at different times, each registration shall be accompanied by the nonrefundable initial energy agent registration fee set forth at N.J.A.C. 14:4-5.12. This provision shall also apply to [registration renewals] the Annual Information Update Form’s filings.

(e) An energy consultant registration obtained under this subchapter shall [be valid for one year from the date of issue] not expire, so long as the registrant pays to the Board, within 30 days before the anniversary date of the last approved registration application or date assigned by the Board, an annual registration fee, as determined by the Board, accompanied by an annual information update on a form prescribed by the Board.

(f) (No change.)

14:4-5.12 Fees

(a) Fees for license applications and registrations shall include both refundable and nonrefundable components as follows:
<table>
<thead>
<tr>
<th>License</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric Power Supplier License</td>
<td>$250.00</td>
</tr>
<tr>
<td>[Clean Power Marketer License]</td>
<td>[$250.00]</td>
</tr>
<tr>
<td>Gas Supplier License</td>
<td>$250.00</td>
</tr>
<tr>
<td>[Private Aggregator, and/or Energy Agent, Private Aggregator, and/or Energy Consultant]</td>
<td>[$500.00]</td>
</tr>
<tr>
<td>[Private Aggregator, and/or Energy Consultant]</td>
<td>[$500.00]</td>
</tr>
</tbody>
</table>

**Initial Application**

Fee-

| Nonrefundable | $250.00 | [$250.00] | $250.00 | $500.00 | [$500.00] |

| License | Fee-refunded if license is denied | $1,000.00 | [$1,000.00] | $800.00 | $0 | [$0] |

| [Renewal] Annual Information Update Fee | Nonrefundable | $500.00 | [$500.00] | $400.00 | $200.00 | [$200.00] |

(b) If an applicant applies for more than one license, the applicant shall submit the application fees for both licenses. For example, the application fee for both an electric power supplier license and a [clean power marketer license would be $2,500; and the fee for both an electric power
supplier license and a gas supplier license would be [$2,050] $2,300. Similarly, an applicant that applies for more than one license shall post a surety bond for the sum of the applicable amounts required at N.J.A.C. 14:4-5.4(f). For registrants, the application fee remains the same if an applicant applies for one, two, or all three registrations. For example, an initial fee for an Energy Agent would be $500.00 and the initial fee for an Energy Agent and Energy Consultant would be $500.00 as well.

14:4-5.13 Enforcement

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

(d) Nothing shall limit the authority of the Board to deny, suspend, or revoke a license or registration at any time, consistent with the provisions of P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.).