

4. Private aggregators;
5. Clean power marketers; and
6. Local distribution companies.

(b) A BGS provider is not subject to this subchapter, as regards those activities related to providing BGS services.

(c) The requirements in this subchapter apply in addition to all other applicable requirements of this chapter and N.J.A.C. 14:3, 14:5 and 14:6, and other applicable law.

(d) A person shall not do, or offer to do, any of the following, without first obtaining an electric power supplier license under this subchapter:

1. Provide electric generation service or gas supply service for use by retail customers;
2. Advertise or market electric generation service or gas supply service for use by retail customers;
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.

(e) A person shall not be eligible to participate in the Board's Clean Power Choice program, as set forth in *In The Matter Of A Voluntary Green Power Choice Program*, BPU Docket No. E005010001, dated January 24, 2005, without first obtaining a clean power marketer license under this subchapter.

(f) A person shall not arrange the retail sale of electricity, electric-related services, gas supply or gas-related services between government or private aggregators and electric or gas power suppliers without first registering as an energy agent under this subchapter.

(g) A non-government entity shall not combine the energy loads of multiple end users, and arrange a contract with a TPS to purchase electric generation service or gas supply service on behalf of those end users, without first registering as a private aggregator under this subchapter. Certain government entities are authorized to combine the energy loads of multiple end users through a government energy aggregation program in accordance with N.J.A.C. 14:4-6.

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

1. Submit a completed application that meets the requirements at N.J.A.C. 14:4-5.3 or 5.6, as applicable;
2. Submit the appropriate fees, as required under N.J.A.C. 14:4-5.12; and

3. If the application is for an electric power supplier or gas supplier license, provide a surety bond that meets the requirements at N.J.A.C. 14:4-5.4.

(i) The licenses and registrations provided for under this subchapter are non-transferable. The merger or acquisition of a licensee shall be subject to N.J.A.C. 14:4-5.5.

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

New Jersey Board of Public Utilities
ATTN: Division of Audits/Licensing
2 Gateway Center
Newark, New Jersey 07102
www.bpu.state.nj.us
(973) 648-4450

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

1. A submittal for which a request for confidentiality is filed and approved under the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12; and

2. Sales volumes and revenues sorted by customer class.

(l) Definitions for terms used in this subchapter can be found in the rules for all utilities at N.J.A.C. 14:3-1.1, and in the general provisions for this chapter at N.J.A.C. 14:4-1.2.

(m) A licensee or registrant shall comply with all terms and conditions of the license or registration.

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

(a) An electric power supplier, 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, gas supplier or clean power marketer license, an applicant shall maintain an 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 electric public utilities. To satisfy this requirement, an applicant shall:

1. Lease or own space in a building in New Jersey. The space shall be sufficient to house all records required to be kept under this subchapter. The records may be kept in electronic form; and

2. Provide the street address of the New Jersey office. A post office box or rented mail-receiving space at a mail service store (for example, Mailboxes, Etc.) shall not constitute a New Jersey office.

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

1. An Internet website and e-mail address through which Board staff and customers can contact the applicant;

2. A customer service representative, who is available by toll-free telephone during normal New Jersey business hours to respond to complaints or inquiries from customers; and

3. 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.

(d) An automated telephone service shall not, by itself, satisfy the requirements in (c)2 and 3 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) To be eligible for an electric power supplier license, an applicant shall, in addition to meeting the other requirements in this section, demonstrate that it meets all of the following reliability criteria, as applicable:

1. Membership in PJM Interconnection, L.L.C. as defined at N.J.A.C. 14:4-1.2;

2. A signatory to the PJM Reliability Assurance Agreement, as a load serving entity;

3. Compliance with the reliability requirements of the New York Independent System Operator;

4. Compliance with the reliability standards and requirements of the following, as applicable:

i. The Federal Energy Regulatory Commission (FERC);

ii. All Board rules, orders, and directives; and

iii. Any other applicable reliability standards or requirements issued by any state, regional, Federal or industry body with authority to establish such standards.

(f) To be eligible for a gas supplier license, an applicant shall, in addition to meeting the other requirements in this section, meet all of the following:

1. All applicable reliability standards and requirements of the Federal Energy Regulatory Commission;

2. The requirements of the rules for natural gas service at N.J.A.C. 14:6;

3. The requirements in the Liquefied Natural Gas Facilities: Federal Safety Standards 49 CFR Part 193, which are incorporated herein by reference, as amended and supplemented; and

4. The requirements of the National Fuel Gas Code, ANSI Z223.1/NFPA 54, published by the American National Standards Institute, which are incorporated herein by reference, as amended and supplemented, may be obtained at www.ansi.org.

(g) The applicant shall agree, as a condition of the license, to provide all information requested by Board staff, or by the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety, for the purpose of determining compliance with the license or this subchapter. This information shall be certified by an officer of the corporation.

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

(a) An application for an electric power supplier, 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 shall be available from the BPU through its website at www.bpu.state.nj.us, or by telephone at (973) 648-4450.

(b) A complete application for an electric power supplier, 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. Information identifying the applicant and the applicant's business, including past and present name(s), address(es), and contact information for the company, dating back to its original formation and/or incorporation;

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

3. The appropriate application fee, set forth at N.J.A.C. 14:4-5.12;

4. Descriptive information regarding the applicant, and the applicant's business, including the business profile and history;