

CHAPTER 4

ENERGY COMPETITION STANDARDS

Authority

N.J.S.A. 48:3-78 et seq.

Source and Effective Date

R.2001 d.46, effective January 9, 2001.
See: 32 N.J.R. 4249(a), 33 N.J.R. 565(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Energy Competition Standards, expires on January 9, 2006.

Chapter Historical Note

Chapter 4, Autobus and Trolley, was adopted and became effective prior to September 1, 1969.

Chapter 4, Autobus and Trolley, was recodified as N.J.A.C. 16:52 by an administrative change, effective November 3, 1995. See: 27 N.J.R. 4906(a).

Chapter 4, Energy Competition Standards, was adopted as new rules by R.1999 d.257, effective July 9, 1999. See: 31 N.J.R. 2228(a).

Subchapter 1, Interim Anti-Slamming Standards, Subchapter 2, Interim Licensing and Registration Standards, and Subchapter 3, Interim Retail Choice Consumer Protection Standards, were readopted as R.2001 d.46, effective January 9, 2001. See: 32 N.J.R. 4249(a), 33 N.J.R. 565(a).

Subchapter 4, Interim Environmental Information Disclosure Standards, Subchapter 5, Affiliate Relations, Fair Competition and Accounting Standards and Related Reporting Requirements, and Subchapter 6, Interim Government Energy Aggregation Program Standards, were adopted as new rules by R.2000 d.408, d.409 and d.410, effective September 11, 2000. See: 32 N.J.R. 3617(a), 3633(a), and 3642(a). See, also, Subchapter Historical Notes.

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SUBCHAPTER 1. INTERIM ANTI-SLAMMING STANDARDS

14:4-1.1 Scope

The following standards are to protect against unauthorized changes in a customer's electric power supplier or natural gas supplier as required by "The Electric Discount and Energy Competition Act," P.L. 1999, c.23, Section 37. These standards also apply to the unauthorized switch of a customer away from basic generation service or basic gas supply service provided by an authorized electric or natural gas utility.

14:4-1.2 Definitions

The following words and terms, when used in these standards, shall have the following meanings unless the context clearly indicates otherwise.

"Act" refers to the "Electric Discount and Energy Discount and Energy Competition Act," (P.L. 1999, c.23).

"Board" means the New Jersey Board of Public Utilities or its successor agency.

"Change Order" means a request made by an electric power supplier or a natural gas supplier to an LDC to have the supplier of record of a customer changed.

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State.

"Electric power supplier" means a person that is duly licensed pursuant to the provisions of the Act to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of the act.

"Electric public utility" means a public utility, as that term is defined in R.S. 48:2-13, that transmits and distributes electricity to end users within this State.

"Gas public utility" means a public utility, as that term is defined in R.S. 48:2-13, that distributes gas to end users within this State.

"Gas supplier" means a person that is duly licensed pursuant to the provisions of the act to offer and assume the contractual and legal obligation to or provide gas supply service to retail customers, and 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 any subsidiary of a gas utility is not a gas supplier. In the event that 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 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 adopted by the Board pursuant to subsection k. of section 10 of the Act.

"Local Distribution Company (LDC)" means an electric public utility or a gas public utility.

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers.

"Slamming" means an unauthorized change in a customer's electric power supplier or gas supplier.

“Third Party Supplier (TPS)” means an electric power supplier or a gas supplier as those terms are defined herein, or a person acting on behalf of such suppliers.

14:4-1.3 Change orders for gas or electric service

(a) No TPS shall submit to a LDC, an order requesting a change of a customer’s electric or gas supplier unless the order is in accordance with these rules. The only acceptable change order that an LDC will process is from an

Electronic Data Interchange (EDI) transaction, in a Board approved format.

(b) A change order shall be deemed to be unauthorized unless the customer has authorized the change affirmatively and voluntarily and the supplier has obtained the customer’s approval either through a signed contract or such other alternative forms of verification as the Board may permit, pursuant to its consumer protection standards or Board Order.

(i) The governing body shall enter into a written agreement with the selected TPS, which agreement shall include:

1. The contract for a government aggregator's own load;
2. A contract form in compliance with and includes the requirements of N.J.A.C. 14:4-6.6(a); and
3. A provision that such written agreement shall not become effective until the proposed contract in (i)2 above is approved by the Board.

(j) After entering into a written agreement with the selected TPS, the governing body shall submit to the Board, for approval, the proposed standard contract to be entered into between the selected TPS and each residential customer who affirmatively consents to enter into such contract.

(k) The governing body shall submit an application to the Board for approval of a contract for a limited government energy aggregation program which shall include the following information:

1. A copy of the bid specifications which was issued pursuant to N.J.A.C. 14:4-6.4 to solicit bids from licensed TPSs, accompanied by an index which indicates precisely where in the aforementioned each provision required in N.J.A.C. 14:4-6.6(a) is set forth;
2. A copy of the written agreement, accompanied by an index which indicates precisely where in the written agreement each provision required in N.J.A.C. 14:4-6.6(a) and in (i)3 above is set forth;
3. The TPS' name and license number;
4. A detailed customer bill comparison which demonstrates for a residential customer: for 250 kWh, 500 kWh, 1,000 kWh and 2,000 kWh for each month of the year, the customer's total electric bill under the proposed contract with the customer's total electric bill at the same electricity usage levels for each month of the year if the customer were to remain on basic generation service; and for 50 therms, 100 therms, 150 therms and 200 therms for each month of the year, the customer's total gas bill under the proposed contract with the customer's total gas bill at the same gas usage levels for each month of the year if the customer were to remain on basic gas supply service;
5. A copy of the proposed form of notice, consistent with (q)1 below, which will be utilized to solicit customer consent to the energy aggregation program;
6. If a resubmission, noted deficiency(ies) corrected; and
7. Other items as the Board deems necessary and which will be specified pursuant to Board Order.

(l) The Board shall determine whether the submission is complete within 30 days receipt thereof.

1. If the submission is determined to be incomplete, the Board shall return the submission forthwith, with notice of the specific deficiency(ies).

2. The governing body shall correct specific deficiency(ies) and resubmit.

(m) Upon being notified by the Board that the submission is complete, the governing body or its designee shall provide a copy of completed submission to the Ratepayer Advocate (RA).

(n) The RA shall recommend to the Board to approve, modify or reject submission within 45 days of receipt thereof.

1. The Board shall approve, reject or modify submission within 60 days of the submission being deemed complete.

(o) Upon receipt of Board approval, governing body, or its designee, shall authorize the selected licensed TPS to solicit the affirmative and voluntary written consent of any residential customer who did not initially affirmatively decline to participate.

(p) The selected licensed TPS shall be subject to N.J.S.A. 48:3-86 and Board-adopted customer protection standards.

(q) The governing body shall notify all residential customers of their right to decline continued participation if there is a change in TPS or price.

1. The governing body must use Board-approved form of notice; and

2. The governing body must provide certification of said notification to the Board.

(r) The county government aggregator may only implement a program pursuant to N.J.S.A. 48:3-92(f) and N.J.A.C. 14:4-6.6(g) and (h).

(s) The provisions of N.J.S.A. 48:3-94 and (d) above through (u) below shall only apply to residential customers.

(t) Nothing in N.J.S.A. 48:3-94 or (e) and (f) above shall preclude a limited government aggregation program from including business customers pursuant to N.J.S.A. 48:3-94 or (a) through (c) above.

(u) All customer information obtained by a government aggregator shall be deemed confidential and may not be used or disseminated for any purpose other than the facilitation of the aggregation program. If a government aggregator is unable, for any reason, to ensure the confidentiality and proper use of specific customer information, said customer(s) shall be informed and given the opportunity to cease participation in the aggregation program.

Amended by R.2002 d.313, effective September 16, 2002.
See: 34 N.J.R. 1524(d), 34 N.J.R. 3230(a).

Rewrote the section.

APPENDIX

Limited Government Energy Aggregation Program Notice

Dear _____ :

This is to inform you that, as provided for under the State's "Electric Discount and Energy Competition Act" (P.L. 1999, c.23), the (name) has chosen to enter into a contract(s) for electricity generation service (or gas supply service) on behalf of our residential or business constituents unless you decline to participate. This is known as a "Limited Government Energy Aggregation Program." This notice is being sent to you pursuant to State law.

Under the law, you can choose one of the following options:

- You can remain a customer of your present electric (and natural gas) public utility.
- You can choose to participate in the (name) municipal energy aggregation program and sign-up with the supplier chosen by a public bid by the (name).
- You can shop for and negotiate a contract with any other power supplier (or gas supplier) on your own.
- You can participate in other aggregation groups that may contact you.

Once a (name) contract with an electric power supplier (or gas supplier) is approved by the New Jersey Board of Public Utilities, you will be contacted by that supplier with an offer to voluntarily participate in the program. At that time, you will be asked to sign a contract. *You will be under no obligation to enter into a contract and may decline to participate at that time.* Under the State law, the price for electricity must be lower than the rate charged by your electric public utility.

If you have not received detailed information or have additional questions concerning this program, please contact (fill in organization, name, address, e-mail as appropriate). If you wish to decline participation in the (Name) Energy Aggregation Program at this time, please complete, sign and return the bottom of this Notice in the enclosed envelope provided by (date).

Sincerely,
Mayor

I do not wish to participate in the (Name) Limited Energy Aggregation Program.

Signature: _____

Name: _____

Address: _____

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. INTERIM RENEWABLE ENERGY PORTFOLIO STANDARDS

Authority

N.J.S.A. 48:3-49 et seq.

Source and Effective Date

R.2001 d.231, effective June 15, 2001 (to expire December 15, 2002).
See: 33 N.J.R. 2536(a).

Subchapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Subchapter 8, Interim Renewable Energy Portfolio Standards, expires on June 13, 2003. See: 35 N.J.R. 94(a).

14:4-8.1 Purpose and scope

(a) Pursuant to the provisions of the Electric Discount and Energy Competition Act (the "Act") (N.J.S.A. 48:3-87), each electric power supplier or basic generation service provider who sells electricity to retail customers in this State shall include in its electric energy portfolio electricity generated from renewable energy sources. These interim renewable portfolio energy standards ("interim standards") are designed to encourage the development of renewable sources of electricity and new, cleaner generation technology; minimize the environmental impact of emissions from electric generation; reduce possible transport of emissions and minimize any adverse environmental impact from de-regulation of energy generation.

(b) These interim standards pertain to the retail electricity sales of each electric power supplier and basic generation service provider as defined in N.J.A.C. 14:4-8.2. These interim standards pertain to electricity retail sales, and not to installed capacity obligations.

(c) These interim standards do not apply to a private or government aggregator that contracts for electric generation service or electric related services, either separately or bundled, for its own facilities or on behalf of other business and residential customers in this State. These standards do not apply to an energy agent that arranges the sale of retail electricity or electric-related services between government aggregators or private aggregators and electric power suppliers. The electric power supplier(s) who is contractually obligated to sell electricity to the aggregator shall comply with these interim standards by including the aggregated amount as part of its energy portfolio.

(d) For the limited purposes of these interim standards, electricity generated from Class I renewable energy projects funded by the societal benefits charge (SBC) shall qualify as Class I renewable energy that can be used to meet the renewable energy portfolio standards percentage requirements. Specifically, Class I renewable energy generated from projects funded by the SBC, as a result of the findings of the Comprehensive Resources Analysis (CRA) Proceeding, may be used to meet the requirements herein, unless and until the Board determines otherwise.

(e) Certain elements of these interim standards, particularly pertaining to reporting requirements for electric power suppliers and basic generation service providers, may be subject to elimination or modification by an order of the Board, to the extent that a tracking system is implemented by an independent system operator and/or an environmental disclosure program administrator.

14:4-8.2 Definitions

The following words and terms, when used in these interim standards, shall have the meanings given below, unless the context clearly indicates otherwise:

“Act” means the “Electric Discount and Energy Competition Act” (N.J.S.A. 48:3-49 et seq.).

“Aggregator” means either of the following:

1. A governmental entity, subject to the requirements of the “Local Public Contracts Law,” P.L. 1971, c.198 (N.J.S.A. 40A:11-1 et seq.), the “Public School Contracts Law,” N.J.S.A. 18A:18A-1 et seq., or the “County College Contracts Law,” P.L. 1982, c.189 (N.J.S.A. 18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier(s) for electric generation service or electric related service either separately or bundled with other services, for its own facilities, the use of other government aggregators or on behalf of business and residential customers within its territorial jurisdiction; or
2. A private non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State and that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, on behalf of multiple end-use customers by combining the loads of those customers.

For the limited purposes of these interim standards, a government or private aggregator, as well as its customers, shall be considered to be retail customers.

“Basic generation service” means electric generation service that is provided to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot

obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the Board.

“Biomass” means, for the limited purposes of these interim standards, as it is defined in Executive Order 13134, published in the Federal Register on August 16, 1999, “. . . any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials. Old-growth timber means timber of a forest from the late successional stage of forest development. The forest contains live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old growth varies significantly by forest type and from one biogeoclimatic zone to another.”

“Board” means the New Jersey Board of Public Utilities or any successor agency.

“Broker” means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission or other services to end-use retail customers, but does not take title to any of the power sold.

“Electric power supplier” means a person or entity that is duly licensed by the Board to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers.

“Energy” means electric energy measured in kilowatt hours (kWh).

“Energy agent” means a person that is duly registered by the Board to arrange the sale of retail electricity or electric related services between government aggregators or private aggregators and electric power suppliers, but does not take title to the electric sold.

“Fuel cell” means an electrochemical device that converts chemical energy in a hydrogen or hydrogen-rich fuel directly into electricity, heat and water without combustion. The hydrogen or hydrogen-rich fuel can be obtained from hydrocarbon-based fuel sources that include, but are not limited to, natural gas, methanol, landfill and digester gas, and biomass gas.

“Marketer” means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers.

“Net metering” means the difference between the electricity generated on the customer’s side of the meter using wind or solar photovoltaic systems and the amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period as determined by a meter which is allowed to run backwards.

“NJDEP” means the New Jersey Department of Environmental Protection.

“New York Independent System Operator” (“NY ISO”) means the independent system operator that coordinates the physical supply of electricity throughout the service territories of New York state utilities and maintains reliability of the bulk power system.

“PJM Interconnection, L.L.C.” (“PJM ISO”) means the independent system operator that operates the power exchange in sections of Pennsylvania, New Jersey, Maryland, and Virginia, and all of Delaware and the District of Columbia and which is recognized by the North American Electric Reliability Council, or its successor, as the “PJM Control Area.”

“Renewable energy,” for the limited purposes of these interim standards, means electric energy that is produced from a source of energy that belongs to one of the following two classes:

1. “Class I renewable energy” means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner; or
2. “Class II renewable energy” means electric energy produced at a resource recovery facility or hydro power

facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities.

“Retail choice” or “retail competition” means the ability of retail customers to shop for electric generation service from electric power suppliers or opt to receive basic generation service, and the ability of an electric power supplier to offer electric generation service to retail customers.

“Retail customer” means any person that is an end user of electricity and is connected to any part of the transmission and distribution system within an electric public utility’s service territory within this State. For the limited purposes of these interim standards, this term includes an aggregator, as well as the customer of a private sector aggregator or governmental aggregator, but does not include a wholesale customer.

“Societal benefits charge” means a charge imposed by an electric public utility, at a level determined by the Board, pursuant to, and in accordance with, N.J.S.A. 48:3-60.

“Supplier” means an electric power supplier or a basic generation service provider.

“Total retail sales” or “total energy load” means the total amount of kilowatt hours of electricity that an electric power supplier or a basic generation service provider sells to retail customers, including electricity aggregators, in this State during a given year.

14:4-8.3 Implementation schedule

(a) Each electric power supplier or basic generation service provider selling electricity to retail customers in this State shall have in its annual electric energy portfolio a minimum amount of electricity generated from Class I and Class II renewable energy sources, as defined in N.J.A.C. 14:4-8.2, as a percentage of the total energy load supplied to New Jersey retail customers according to the following schedule:

Year	Class I	Plus	Class I or II	Total
2001 (September–December)	0.5%		2.5%	3.0%
2002	0.5%		2.5%	3.0%
2003	0.75%		2.5%	3.25%
2004	0.75%		2.5%	3.25%
2005	0.75%		2.5%	3.25%
2006	1.0%		2.5%	3.5%
2007	1.5%		2.5%	4.0%
2008	2.0%		2.5%	4.5%
2009	2.5%		2.5%	5.0%
2010	3.0%		2.5%	5.5%
2011	3.5%		2.5%	6.0%
2012 and beyond	4.0%		2.5%	6.5%

(b) In the year 2001, at least one-half of one percent of the kilowatt hours sold in this State to retail customers from September 1st through December 31st by each electric

power supplier and each basic generation service provider shall be from Class I renewable energy sources, as defined herein and specified in the above table (Column 2, "Class I"). At a minimum, an additional two and one-half percent of kilowatt-hours of electricity sold to retail customers from September 1st through December 31st by each electric power supplier and each basic generation service provider shall be from Class I or Class II renewable energy sources, or any combination thereof (Column 3, "Class I or Class II").

(c) For each successive year thereafter, a minimum percentage of the kilowatt hours sold in this State from January 1st through December 31st by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources, beginning at one-half of one percent in 2002 and increasing to four percent of the kilowatt hours sold in this State by 2012 and remaining at a minimum of four percent for each successive year thereafter (Column 2, "Class I"). In addition, no less than two and one-half percent of the kilowatt hours of electricity sold in this State by each electric power supplier and each basic generation service provider to retail customers from January 1st to December 31st shall be from Class I or Class II renewable energy sources, or any combination thereof (Column 3, "Class I or Class II"). Thus, by the year 2012, each electric power supplier and each basic generation service provider shall include at least a total of six and one-half percent of Class I and Class II renewable energy as part of his electric energy portfolio.

(d) For each year beyond the year 2012, the minimum percentage of energy required from Class I and Class II renewable sources shall remain fixed at four percent from Class I renewable energy plus an additional two and one-half percent from either Class I renewable energy or Class II renewable energy or a combination thereof, for a total of six and one-half percent of the electric power supplier's or basic generation service provider's annual electric energy portfolio.

14:4-8.4 Reporting requirements of the interim standards

(a) Pursuant to the mandates embodied in N.J.S.A. 48:3-87, the interim standards for renewable energy require that each electric power supplier or basic generation service provider demonstrate, beginning in 2002, that the percentage of Class I and Class II renewable energy in the electric power supplier's or basic generation service provider's electric energy portfolio for the preceding calendar year was at least as great as the required minimum percentages set forth in the table in N.J.A.C. 14:4-8.3.

(b) By March 1st of each year, beginning March 1, 2002, each electric power supplier and basic generation service provider shall file an annual report with the Board of Public Utilities, demonstrating that the electric power supplier's or basic generation service provider's electric energy portfolio met the percentage requirements for Class I and Class II renewable energy contained in N.J.A.C. 14:4-8.3 for the preceding calendar year (January through December).

(c) The annual report shall contain the following:

1. The electric power supplier's or basic generation service provider's total amount of kilowatt hours sold to retail customers in New Jersey during the preceding year;

2. The amount of energy sold to retail customers in New Jersey during the preceding year that was generated from Class I renewable energy sources, expressed as a number of kilowatt hours; and the percentage of the electric power supplier's or basic generation service provider's total retail sales that this amount represents.

- i. For the limited purposes of these interim standards, electric energy produced from biomass, either by the burning of captured methane gas derived from biomass or the direct firing of biomass, shall qualify as a Class I renewable energy source provided that the biomass is cultivated and harvested in a sustainable manner.

- (1) Electric energy produced from combustion of the following materials shall qualify as a Class I renewable source that is produced from biomass that is cultivated and harvested in a sustainable manner in accordance with a management plan approved by the environmental agency in the state in which the wood is grown:

- (A) Gas from the anaerobic digestion of food waste and sewage sludge;

- (B) Gas from the anaerobic digestion of other biomass fuels, including bioenergy crops and agricultural waste, provided the electric power supplier or basic generation service provider maintains documentation that demonstrates that the biomass was cultivated and harvested in a sustainable manner;

- (C) A bioenergy crop, provided that the electric power supplier or basic generation service provider maintains documentation that demonstrates that the crop was cultivated and harvested in a sustainable manner;

- (D) Any of the following types of wood, provided that the wood is clean and untreated and that the electric power supplier or basic generation service provider maintains documentation that demonstrates that the wood was cultivated and harvested in a sustainable manner:

- I. Wood produced at a biomass energy plantation;

- II. Wood from the thinning or trimming of trees and/or from a forest floor, except wood from old growth forests;

III. Ground wood, produced through the grinding or shredding of pallets and other scrap wood (and that the removal of nails and any other metal) at a recycling facility that is classified as a Class B recycling facility by the New Jersey Department of Environmental Protection's Bureau of Landfill and Recycling Management or an equivalent recycling facility approved by the state environmental agency in which the facility is located; or

IV. Wood shavings and scrap from a lumberyard or a paper mill;

(E) The electric power supplier or basic generation service provider shall provide the documentation required pursuant to (c)2i(1)(B), (C) or (D) above to the Board or its authorized representative upon request.

(2) Electric energy produced from combustion of the following materials shall not qualify as a Class I renewable source that is produced from biomass that is cultivated and harvested in a sustainable manner:

(A) Treated, painted or chemically coated wood;

(B) Municipal solid waste;

(C) Tires;

(D) Sewage sludge;

(E) Wood waste, including demolition waste and construction waste, for which there is no documentation that demonstrates that the wood was grown and harvested in accordance with a management plan approved by the environmental agency of the state in which the wood is grown;

(F) Wood from an old growth forest, including wood from the forest floor; and

(G) Wood from the harvesting of a standing forest, except for a forest that is part of a bioenergy plantation.

(3) For any category not specifically addressed within (c)2i(1) and (2) above, to determine if electric energy produced from biomass shall qualify as a Class I renewable resource, which is produced from biomass that is cultivated and harvested in a sustainable manner, an electric power supplier or basic generation service provider intending to rely on energy produced from biomass to meet the standards in N.J.A.C. 14:4-8.3 for Class I renewable energy shall seek a determination from the NJDEP as to whether the biomass was cultivated and harvested in a sustainable manner by filing a request with the Board for such determination. At the request of the Board, the NJDEP shall make case-by-case determinations, until such time as the NJDEP issues generic criteria that further defines biomass that is cultivated and harvested in a sustainable manner.

(A) An electric power supplier or basic generation service provider who intends to rely on energy from a biomass facility as Class I renewable energy shall file a request with the Board for a determination as to the facility's eligibility as soon as possible, but no later than September 30th of the year for which the supplier seeks to use electricity from the facility to meet the requirements herein.

I. This deadline is intended to allow a period of time for the NJDEP to conduct an environmental review of the facility records, and to allow the supplier a reasonable time to comply with the standards after a determination has been made. The NJDEP shall complete its environmental review and make a determination no later than two months after the Board requests the NJDEP to make such a determination pursuant to the request that has been filed with the Board.

ii. For the limited purposes of these interim standards, Class I renewable energy from geothermal technologies means electricity produced by extracting hot water or steam from geothermal reservoirs in the earth's crust and supplied to steam turbines that drive generators to produce the electricity;

3. The amount of energy sold to retail customers in New Jersey during the preceding year that was generated from Class II renewable energy sources, expressed as a number of kilowatt hours, and the percentage of the electric power supplier's or basic generation service provider's total retail sales that this amount represents.

i. For the limited purposes of these interim standards, the NJDEP has determined that only hydroelectric facilities that have a maximum design capacity of 30 megawatts or less shall qualify as Class II renewable energy sources, unless and until the NJDEP has issued more specific criteria that hydroelectric facilities shall meet to ensure that such a facility meets the highest environmental standards;

ii. An electric power supplier or basic generation service provider may not use pumped hydroelectricity to meet either the Class I or Class II renewable energy resource requirements, except to the extent that the pump storage facility is powered by a Class I or Class II renewable energy resource as defined in N.J.A.C. 14:4-8.2.

(1) Use of renewable energy to power a pumped storage hydroelectric facility shall not be construed to exempt the facility, in either its construction or operation, from the obligation to meet all applicable environmental standards and requirements.

iii. For limited purposes of these interim standards, the NJDEP has determined that energy from all resource recovery facilities permitted in New Jersey that comply with all applicable regulations meet the requirements for Class II renewable energy.

iv. During the 18-month period when these interim standards are in effect, an electric power supplier or basic generation service provider intending to rely on energy produced by an out-of-State resource recovery facility as Class II renewable energy shall seek a determination from the NJDEP as to whether the facility meets the highest environmental standards by filing a request with the Board for such determination. The NJDEP shall make case-by-case determinations, unless and until such time as the NJDEP issues generic criteria that defines the highest environmental standards that a resource recovery facility must meet.

(1) At a minimum, a resource recovery facility shall not be deemed to meet the highest environmental standards unless it is in compliance with air pollution control standards of the state in which the facility is located, as well as Federal air pollution control standards.

(2) Where New Jersey has more stringent environmental protection requirements, a resource recovery facility may not be deemed to meet the highest environmental standards unless it is in compliance with the New Jersey requirements; or equivalent or similar standards, such that overall its level of environmental protection is at least comparable to what would be realized under the New Jersey requirements. These requirements may include solid waste management practices, such as source reduction or recycling practices.

v. As mandated by the Act, an electric power supplier or basic generation service provider may not meet these standards through the use of Class II renewable energy that is generated at a facility in a jurisdiction where retail competition is not permitted.

(1) An electric power supplier or basic generation service provider who intends to rely on Class II renewable energy from a resource recovery facility located in a state other than New Jersey, but from a jurisdiction where retail competition exists, shall file a request with the Board for a determination as to the facility's eligibility as soon as possible, but no later than September 30th of the year for which the supplier seeks to use electricity from the facility to meet the requirements herein.

(A) This deadline is intended to allow a period of time for the NJDEP to conduct an environmental review of the facility records, and to allow the supplier a reasonable time to comply with the standards after a determination has been made. The NJDEP shall complete its environmental review and make a determination within no more than two months after the Board requests the NJDEP to make such a determination pursuant to a request that has been filed with the Board;

4. Documentation which demonstrates that the Class I and Class II renewable resources in the electric power supplier's or basic generation service provider's electric energy portfolio were produced by owned generation, or under a bilateral contract or a contract for specified resources between the electricity power supplier or generation service provider and a generating company or between the electricity power supplier or a generation service provider and a wholesale power marketer, in which:

i. Each generating unit used to fulfill these interim standards is specified, including location, fuel and technology type, and any unique State and/or Federal facility or plant identification number;

ii. The operator of the generating unit(s) documents that the specified amount of kilowatt hours from each renewable energy source was generated by and/or sold to the electric power supplier or basic generation service provider;

iii. Evidence that the specified kilowatt hours flowed into the appropriate PJM ISO or NY ISO control area; and

iv. An affidavit from the owner of the specified unit(s) that the renewable energy power was sold once and only once; and

5. If an electric power supplier or basic generation service provider sells electricity in any other state and is subject to renewable energy portfolio requirements in that state, the electric power supplier or basic generation service provider shall list any such requirement and shall indicate how it satisfied those renewable energy portfolio requirements.

i. To prevent double-counting the electric power supplier or basic generation service provider shall not satisfy New Jersey's renewable energy portfolio requirements using renewable energy used to satisfy another state's renewable energy portfolio requirements.

(d) Class I and Class II renewable portfolio percentage requirements cannot be fulfilled by ascribing a portion of spot market purchases as renewable energy.

1. To avoid multiple counting of the renewable energy generated, spot market purchases shall not be allowed to fulfill Class I or Class II renewable energy requirements. Because most of the renewable energy claimed by suppliers as fulfilling the interim standards' requirements will be scheduled and delivered into the PJM or NY ISO control area markets, allowing suppliers to rely on a percentage of the spot market average to discharge their renewable energy requirement could result in counting the renewable energy in more than one supplier's energy portfolio.

(e) In some cases, a single electricity generating source may utilize a combination of energy resources to generate electricity, and these energy resources may fall into more than one of the following categories: "Class I renewables," "Class II renewables" and "other type of energy source." This may occur, for example, when biomass that is cultivated and harvested in a sustainable manner is fired or co-fired in conjunction with natural gas or other energy resources which are not Class I renewable energy resources. In such a case, for the purpose of reporting under N.J.A.C. 14:4-8.4(c)2 and/or 3, the following procedures shall be followed to determine the percentage of an electric power supplier's or basic generation service provider's electricity portfolio that is generated from the Class I or Class II renewable energy resources:

1. If the generator is delivering the electricity on a wholesale basis to a single supplier, then the prorated share of the total electricity sold shall be considered Class I renewable energy and/or Class II renewable energy, in proportion to the amount of Class I renewable energy sources and Class II renewable energy sources, expressed in kilowatt hours, that was used to produce the electricity. These prorated amounts shall then be used to determine the percentage of Class I and Class II renewable resources in the supplier's portfolio.

2. If the generator is delivering electricity on a wholesale basis to more than one energy supplier, then one of the following two options is acceptable, provided that a supplier utilizes the same approach in determining its amount of Class I and Class II renewable energy:

- i. Unless the contractual arrangements linking the generator and supplier provide otherwise, the amount of Class I and/or Class II renewable energy in the electricity sold to each supplier from this generation source shall be considered to be directly proportional to the amount of Class I and/or Class II renewable energy in the total amount of electricity generated by the generator source, and this amount shall be determined as follows:

- (1) Establish the amount of electricity generated from Class I renewable energy sources; from Class II renewable energy sources; and from all non-renewable energy sources expressed as a percent of the total amount of electricity produced by the generator; and

- (2) Then multiply these percentages by the amount of electricity delivered to each supplier; or

- ii. If the contractual arrangements linking the generator and supplier so provide, the portions of the total amount of electricity generated by the energy source which are Class I and/or Class II renewable energy may be conveyed and assigned to one or more specific suppliers, and the remaining portions of the total amount of electricity generated by the energy source shall be considered not to include any Class I and/or Class II renewable energy. The amounts assigned to each supplier shall be determined as follows; however, the amount of Class I and/or Class II renewable energy from the energy source conveyed to individual suppliers

may not exceed, in total, the portion of the energy generated by the source which was produced from Class I and/or Class II renewable energy resources:

- (1) Establish the amount of electricity generated from Class I renewable energy sources; from Class II renewable energy sources; and all non-renewable energy sources expressed in kilowatt hours;

- (2) Then determine the specific amounts from each category conveyed and assigned to each supplier, so that the sum of electricity from each category sold to each supplier equals the total amount of electricity generated from each category; and

- (3) For the purposes of N.J.A.C. 14:4-8.4(e)1 and 2, for electric generation associated with a combustion device, the amount of electricity produced from each fuel source shall be considered to be in proportion to the amount of British thermal units (Btu) of heat input from each kind of fuel burned in the combustion device.

(f) The electric power supplier or basic generation service provider shall identify after the fact, the specific generating unit or units used to supply the renewable energy in its electric energy portfolio (including operating records for owned generation and contracts for purchased power, minus proprietary information such as pricing terms) and shall document that the renewable energy was not sold more than once, as defined in N.J.A.C. 14:4-8.4(c)4. The electric power supplier or basic generation service provider shall establish either that the Class I and Class II renewable energy was generated and flowed into the appropriate PJM Interconnection L.L.C. or New York Independent System Operator control area or that the conditions are met as set forth in (f)2 below.

1. Aggregate generation from small renewable energy resources, 100 kilowatts of capacity or less, may be used to meet renewable portfolio requirements, provided that the generators or customer-generators or their agents document the level of generation, as recorded by appropriate metering and power sales, on an annual basis;

2. Any renewable energy from small on-site generation not scheduled through the PJM ISO or NY ISO, including on-site small wind or solar photovoltaic generation sources using net metering to record electricity generated from the customer's side of the meter and meeting New Jersey's Interim Net Metering, Safety and Power Quality Standards for Wind and Solar Photovoltaic Systems, N.J.A.C. 14:4-9, may be used to meet these renewable energy portfolio requirements, provided that:

- i. The generation unit is no greater than 100 kilowatts capacity;

- ii. The unit is located in New Jersey;

- iii. The unit meets the definition of Class I renewable energy as defined herein in N.J.A.C. 14:4-8.2;

- iv. The generators or customer-generators or their agents can verify the level of generation, as recorded by appropriate metering, on an annual basis; and

v. Any credit for Class I renewable energy from such small on-site generation shall comply with the protocol of the renewable energy trading system, including proprietorship of credit, when such program is ordered or adopted by the Board.

(g) If the annual March report demonstrates noncompliance for the preceding calendar year, the electric power supplier or basic generation service provider shall then file quarterly reports beginning in June of that year and in each subsequent calendar year in March, June, September, and December, reporting on the calendar quarter that ended three months previously (that is, a report on the January through March period would be submitted in June) to demonstrate that the electric power supplier or basic generation service provider is making progress in meeting the renewable energy portfolio standards' requirements. The electric power supplier or basic generation service provider shall continue to submit quarterly reports until such time that the supplier or provider of electricity has met the Class I and Class II renewable energy portfolio requirements for one full calendar year. The quarterly reports shall include the same components as required for the annual reports, as described in preceding paragraphs.

(h) During the 18-month period of these interim standards, the NJDEP and the Board shall consider outstanding environmental issues.

1. The issues shall include, but are not limited to:

i. The definition of "highest environmental standards" and specifically, the general criteria that an out-of-State resource recovery facility and hydroelectric facility over 30 mW must demonstrate to be approved as meeting the highest environmental standards;

ii. The further definition of what constitutes biomass that is cultivated and harvested in a sustainable manner; and

iii. The development and implementation of a regional renewable energy trading program.

2. The conclusions reached on these issues shall be included in the final renewable energy portfolio standards. A draft of the final standards shall be offered for public review and comment prior to adoption.

14:4-8.5 Calculation methodology

(a) The actual percentages for Class I and Class II renewable energy sources shall be calculated by dividing the total amount of kilowatt hours of electricity sold to retail customers in New Jersey from each renewable generation class, by the electric power supplier's or basic generation service provider's total retail sales within the State. The percentages generated from a Class I or Class II renewable energy source shall consist of the amount of kilowatt hours generated from a renewable energy source(s) that the electric power supplier or basic generation service provider delivered or caused to be delivered to the appropriate PJM Interconnection, L.L.C. or NY ISO control areas during the preceding calendar year to sell to retail customers in New Jersey.

1. Energy under contract or energy from capacity under contract to any customer outside of New Jersey or to any wholesale customer shall not be included in these calculations.

14:4-8.6 Recordkeeping and verification

(a) All documentation pertinent to the requirements in this subchapter shall be subject to audit review by the Board. Each electric power supplier or basic generation service provider shall keep all records pertaining to the requirements contained in this subchapter for a period of five years, including data on kilowatt hours from owned generation, bilateral contracts, and purchases from the wholesale market. Each electric power supplier or basic generation service provider shall make all pertinent records available to the Board for review upon Board request.

(b) Basic generation service providers shall substantiate the cost of renewable energy and submit to the Board such renewable energy supply sources and costs as included in N.J.A.C. 14:4-8.4, and any other data judged pertinent by the Board, in instances of rate proceedings. While recognizing that renewable energy sources have unique attributes, nonetheless, the cost of such energy to be recovered from the ratepayers must be reasonable and prudent.

14:4-8.7 Renewable energy trading program

(a) An electric power supplier or basic generation service provider may satisfy the requirements contained in this subchapter by participating in a renewable energy trading program at such time as a program is developed and ordered or adopted by the Board, in consultation with the NJDEP.

(b) An electric power supplier or basic generation service provider is advised to keep all documentation pertinent to any energy from Class I and Class II renewable sources in excess of the renewable energy portfolio standards' requirement for any given year. Should the renewable energy trading program allow for inter-temporal trading or trading between years, full documentation shall be required to confirm the existence of such excess renewable energy in the electric power supplier's or basic generation service provider's electric energy portfolio.

(c) In the absence of such a trading system, for the year 2001 only, any kilowatt-hours of both Class I and Class II renewable energy contracted for by an electric power supplier or a basic generation service provider, that was generated and that had flowed into the PJM or New York power pools in 2001, and is greater than the amount required by the interim standards, may be used in meeting that electric power supplier's or basic generation service provider's energy portfolio requirements in 2002.

14:4-8.8 Penalties

(a) If an electric power supplier or basic generation service provider fails to meet the requirement for renewable sources of energy set forth in N.J.A.C. 14:4-8.3 for any given year, then such electric power supplier or basic generation service provider shall be required to make up the amount of kilowatt hours in arrears during the succeeding calendar year. Thus, in the following calendar year immediately after the failure to meet the renewable energy portfolio standards' requirement, the amount of kilowatt hours from renewable energy required in the electric energy portfolio of such electric power supplier or basic generation service provider shall be the amount of kilowatt hours set forth for that year in N.J.A.C. 14:4-8.3 plus the amount of kilowatt hours in arrears from the previous calendar year. Documentation that the arrearage has been met shall be included in the quarterly reports as filed with the Board, as required in N.J.A.C. 14:4-8.4.

(b) The failure of an electric power supplier or basic generation service provider that is in arrears to meet the minimum renewable energy portfolio standards' requirement in any year plus compensate for any arrearage that the electric power supplier or basic generation service provider is carrying forward from the preceding calendar year shall constitute a violation, which shall be referred by Board staff to the Board for its consideration. Where applicable and appropriate, the Board shall consult the Attorney General and the NJDEP with respect to these referrals.

1. Any party determined by the Board, after notice and hearing, to have violated any provision of these interim standards relating to the renewable energy portfolio standards' requirements may be subject to any one or more of the following penalties, as consistent with provisions of the Act:

- i. Suspension or revocation of the electric power supplier's license;
- ii. Financial penalties;
- iii. Disallowance of recovery of costs in rates; and
- iv. Prohibition on accepting new customers.

(c) In determining the appropriate sanction, the Board shall consider the following criteria and any other factors deemed appropriate and material to the electric power supplier's or basic generation service provider's failure to comply:

1. The good faith efforts, if any, of the entity charged in attempting to achieve compliance;
2. The gravity of the violation or failure to comply with the requirements in this subchapter;
3. The number of past violations by the entity charged regarding these interim standards and other standards adopted by the Board; and

4. The appropriateness of the sanction or fine to the size of the company charged.

SUBCHAPTER 9. INTERIM NET METERING, SAFETY AND POWER QUALITY STANDARDS FOR WIND AND SOLAR PHOTOVOLTAIC SYSTEMS

Authority

N.J.S.A. 48:3-49 et seq.

Source and Effective Date

R.2001 d.231, effective June 15, 2001 (to expire December 15, 2002).
See: 33 N.J.R. 2536(a).

Subchapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Subchapter 9, Interim Net Metering, Safety and Power Quality Standards for Wind and Solar Photovoltaic Systems, expires on June 13, 2003. See: 35 N.J.R. 94(a).

14:4-9.1 Scope

These rules govern net metering standards for electric power suppliers, basic generation service providers and electric distribution companies.

14:4-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the "Electric Discount and Energy Competition Act" (N.J.S.A. 48:3-49 et seq.).

"Annualized period" means 12 consecutive monthly billing periods beginning with the first customer billing period in which net metering becomes applicable.

"Avoided cost of wholesale power" means the average locational marginal price of energy in the applicable utility's transmission zone.

"Basic generation service" means electric generation service that is provided, pursuant to N.J.S.A. 48:3-57, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the Board.

"Board" means the New Jersey Board of Public Utilities or any successor agency.

"Customer-generator" means a residential or small commercial customer that generates electricity, on the custom-

er's side of the meter, using wind or solar photovoltaic system.

"Electric distribution company" means an electric public utility, as the term is defined in N.J.S.A. 48:2-13, that transmits or distributes electricity to end users within this State.

"Electric generation service" means the provision of retail electric energy and capacity which is generated off site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements thereto.

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of the Act to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, including load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as basic generation service pursuant to N.J.S.A. 48:3-57.

"IEEE" means the "Institute of Electrical and Electronic Engineers."

"Net metering" means that the customer-generator is billed according to the difference between the amount of electricity supplied by the electric power supplier or basic generation service provider in a given billing period and the electricity delivered from the customers' side of the meter using wind or solar photovoltaic systems, with customer generation in excess of electricity supplied credited over an annualized period.

"Network distribution system" means an electric delivery system characterized by multiple uni-directional sub-transmission or primary-voltage feeders that are transformed and converge to a secondary service voltage level, where secondary conductors are commonly interconnected via automated secondary switches. The vast majority of network distribution systems consist entirely of underground construction and are primarily in urban areas.

"Non-discriminatory rates" means rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates the customer-generator would have been charged if not a customer-generator.

14:4-9.3 Net metering standards

(a) All electric power suppliers and basic generation service providers shall offer net metering at non-discriminatory rates to their residential and small commercial customers that generate electricity, on the customer's side of the meter, using a wind or solar photovoltaic system.

(b) A standard contract or tariff providing for net metering shall be developed and made available by each electric power supplier and basic generation service provider to eligible customer-generators on a first-come, first-served basis.

(c) Electric distribution companies shall be permitted to install a second meter, at their expense and with the customer's permission, to measure gross kilowatt hours (Kwh) delivered from customer-generators.

1. If such a meter is installed, it shall be an electronic meter capable of hourly readings to collect data useful for future tariff design and use of distributed generation. If such a meter is installed, the utility shall supply its readings to the customer on a billing period basis, and at times of peak usage. These provisions notwithstanding, a single meter shall be sufficient for any residential or small commercial customer to take advantage of net metering under these standards.

(d) When the amount of electricity delivered by the customer-generator plus any kilowatt hour credits held over from previous billing periods exceed the electricity supplied by the electric power supplier or basic generation service provider, the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits at the electric supplier's or basic generation service provider's avoided cost of wholesale power.

1. When a customer-generator switches electric suppliers, the electric power supplier or basic generation service provider with whom service is terminating shall treat the end of the service period as if it were the end of the annualized period.

(e) Net metering will be reviewed by the Board and may cease to be offered, upon Board authorization, whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 0.1 percent of the State's peak electricity demand or the annual aggregate financial impact to electric power suppliers and basic generation service providers Statewide, as determined by the Board, exceeds \$2,000,000, whichever occurs first.

1. The Board will conduct a public hearing and provide opportunity for public comment prior to ceasing any net metering offering(s).

(f) Each basic generation service provider and electric power supplier shall submit an annual report to the Board indicating the rated generating capacity owned and operated by its net metering customer-generators, the net Kwh received from customer-generators and the aggregate value of net metering credits provided during the previous 12 months. Annual reports shall be due October 31st of each year for the period ending September 30th of each year.

1. For purposes of this section, “aggregate value of net metering credits” means the total amount of energy delivered by customer-generators.

(g) Customer-generators will be eligible for net metering up to a maximum allowable capacity per customer-generator of 100 Kw, but not to exceed the current peak electric needs of its own residential or small commercial facility.

14:4-9.4 Safety and power quality standards

(a) Interconnection costs shall be paid by the customer-generator and shall be in addition to any line extension charge required to meet service requirements.

(b) Customer-generators shall not be charged a fee greater than \$100.00 to process applications for net metering and the net metering interconnection.

(c) Customer-generators shall bear the cost of meeting all applicable safety and power quality standards approved by the National Electrical Code, Institute of Electrical and Electronics Engineers, and accredited testing institutions, such as Underwriters Laboratories.

(d) Customer-generator facilities rated up to and including 10 kilowatts (Kw) except for those facilities served by network distribution systems, shall comply with all applicable safety and power quality standards approved by the National Electrical Code, Institute of Electrical and Electronics Engineers, and accredited testing institutions, such as Underwriters Laboratories, and specifically IEEE Standard 929-2000.

(e) Customer-generator facilities rated above 10 Kw and not more than 100 Kw, and those rated 10 Kw and less and served by network distribution systems, shall comply with all applicable safety and power quality standards approved by the National Electrical Code, Institute of Electrical and Electronics Engineers, accredited testing laboratories, such as Underwriters Laboratories, and electric distribution company tariffs, as approved by the Board.

(f) An electric distribution company may not require an eligible customer-generator whose system(s) meets the standards above to install additional controls, perform or pay for additional tests or purchase additional liability insurance.