

**CHAPTER 4
ENERGY COMPETITION**

Authority

N.J.S.A. 48:2-13, 48:2-78 et seq., and 48:3-48 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).

Chapter Expiration Date

Chapter 4, Energy Competition, Subchapters 1 and 1A, expire April 18, 2011.

In accordance with N.J.S.A. 52:14B-5.1c, Subchapters 2, 3, 4, 5, 6 and 9 expire on July 8, 2006. See: 37 N.J.R. 3911(a).

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.

Subchapter 8, Interim Renewable Energy Portfolio Standards, was adopted as R.2001 d.231, effective June 15, 2001. See 33 N.J.R. 2536(a).

Subchapter 8, Interim Renewable Energy Portfolio Standards, was readopted as R.2003 d.260, effective June 9, 2003. See: 35 N.J.R. 94(a), 35 N.J.R. 2892(a). See, also, section annotations.

Chapter 4, Energy Competition Standards, was renamed "Energy Competition" and Subchapter 1, General Provisions and Definitions, was adopted as new rules by R.2006 d.178, effective May 15, 2006. Former Subchapter 1, Interim Anti-Slamming Standards, was readopted by R.2006 d.178, effective April 18, 2006, and it was recodified as Subchapter 1A, effective May 15, 2006. Subchapter 8, Interim Renewable Energy Portfolio Standards, was readopted by R.2006 d.178, effective April 18, 2006, and it was recodified to N.J.A.C. 14:8 as Subchapter 2, Renewable Portfolio Standards, by R.2006 d.178, effective May 15, 2006. See, also section annotations.

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applies to a given type of entity, the entity shall comply with the requirements in all applicable subchapters.

APPENDIX I. CONVERSION FACTORS

(b) This chapter applies to the following, as these terms are defined at N.J.A.C. 14:4-1.2:

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1. Electric public utilities;
2. Electric power suppliers;
3. Gas public utilities;
4. Gas suppliers;
5. Energy agents, including energy consultants;
6. Government aggregators;
7. Private aggregators;
8. Public utility holding companies (PUHCs); and
9. BGS providers.

APPENDIX A

SUBCHAPTER 6. GOVERNMENT ENERGY AGGREGATION PROGRAMS

(c) Additional provisions that may apply to the entities listed at (b) above can be found in the Board's rules on renewable energy at N.J.A.C. 14:8.

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(d) In addition to the requirements in this chapter, the regulated entities subject to this chapter are also subject to Board orders and other Board rules, including, but not limited to:

1. N.J.A.C. 14:3, All Utilities, which applies to electric public utilities and gas public utilities, as well as other regulated entities;
2. N.J.A.C. 14:5, Electric Service, which applies to electric public utilities;
3. N.J.A.C. 14:6, Gas Service, which applies to gas public utilities;
4. N.J.A.C. 14:12, Demand Side Management, which applies to electric public utilities and gas public utilities; and
5. N.J.A.C. 14:29, Energy Emergency, which applies to electric public utilities and gas public utilities.

SUBCHAPTERS 7 THROUGH 8. (RESERVED)

(e) For the purposes of this chapter, a statement, action, or failure to act by a contractor, agent, or representative of a regulated entity shall be deemed to be the statement, action or failure to act by the regulated entity.

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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.

“Act” means the “Electric Discount and Energy Competition Act” (P.L. 1999, c.23).

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

14:4-1.1 Applicability and scope

(a) This chapter applies to various regulated entities involved in the supply of electricity and natural gas, as set forth at (b) through (e) below. If more than one subchapter

²Conversion factors vary from year to year. 2000 values are reported.

Source: Energy Information Administration, AE099 National Energy Modeling System run AE099B.D100198A.

SUBCHAPTER 5. AFFILIATE RELATIONS, FAIR COMPETITION AND ACCOUNTING STANDARDS AND RELATED REPORTING REQUIREMENTS

Authority

N.J.S.A. 48:2-13 and 48:3-48 et seq.

Source and Effective Date

R.2002 d.313, effective August 21, 2002.
See: 34 N.J.R. 1524(d), 34 N.J.R. 3230(a).

Subchapter Historical Note

Subchapter 5, Affiliate Relations, Fair Competition, and Accounting Standards and Related Reporting Requirements, was adopted as new rules by R.2000 d.409, effective September 11, 2000. See: 32 N.J.R. 3633(a).

Subchapter 5, Affiliate Relations, Fair Competition and Accounting Standards and Related Reporting Requirements, was readopted as R.2002 d.313, effective August 21, 2002. See: Source and Effective Date. See, also, section annotations.

14:4-5.1 Scope

(a) These standards shall apply as follows:

1. N.J.A.C. 14:4-5.3 through 5.5 set forth standards of conduct applicable to transactions, between an electric public utility or gas public utility, including a related competitive business segment of an electric or gas public utility, and a related competitive business segment of the electric or gas public utility holding company providing or offering competitive services to retail customers in New Jersey or the public utility holding company itself providing or offering competitive services to retail customers in New Jersey, as defined herein;

2. N.J.A.C. 14:4-5.6 sets forth standards of conduct applicable to electric and/or gas public utilities and the related competitive business segments of each electric public utility and gas public utility, as well as the transactions, interactions and relations between an electric and/or gas public utility and a related competitive business segment of an electric and/or gas public utility; and

3. N.J.A.C. 14:4-5.7 through 5.9 address regulatory oversight, dispute resolution and violations and penalties applicable to electric and/or gas public utilities regarding affiliate relations, fair competition, accounting standards and related reporting requirements.

(b) The Board reserves the right to promulgate any additional interim standards as may be required to effectuate the intent of the Act.

(c) A New Jersey electric and/or gas public utility, which is also a multi-state electric and/or gas public utility and subject to the jurisdiction of other state or Federal regulatory commissions, may file an application, requesting a limited exemption from these standards or part(s) thereof, for transactions between the electric and/or public utility and its affiliate(s) solely in its role of serving its jurisdictional areas wholly outside of New Jersey.

1. The applicant has the burden of proof to establish the appropriateness of the requested exemption.

14:4-5.2 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the “Electric Discount and Energy Competition Act” (P.L. 1999, c.23), N.J.S.A. 48:3-49 et seq.

“Affiliate” means a “related competitive business segment of an electric public utility or a related competitive business segment of a gas public utility” or a “related competitive business segment of a public utility holding company” as defined herein and in the Act.

“Affiliated” means related to an electric or gas public utility as an affiliate thereof.

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

“Category” means a group of products and/or services that use the same type of electric and/or gas public utility assets or capacity. For example, “leases of land under utility transmission lines” or “use of a utility repair shop for third party equipment repair” would each constitute a separate product and/or service category.

“Competitive service” means any services, goods, or products offered by an electric public utility or a gas public utility that the Board has already determined or that the Board shall in the future determine to be competitive pursuant to section 8 or section 10 of the Act or that is not regulated by the Board.

“Comprehensive resource analysis” or “CRA” means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace.

“Cross-subsidization” means the offering of a competitive product and/or service by an electric and/or gas public utility, or the offering of a product and/or service by an affiliate, which relies in whole or in part on the utilization of utility employees, equipment or other assets, and for which full compensation (via cost allocations or direct payment), as determined by the Board, has not been provided for the use

of such electric and/or gas public utility assets, resulting in the inappropriate transfer of benefits from the utility rate-payers to the competitive product and/or service or affiliate.

“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.

“Customer information” means information data regarding a utility customer which the electric and/or gas public utility learned, acquired or developed while in the business of providing electric and/or gas public utility services.

“Dth” means decatherms or ten therms.

“EBB” means an electric and/or gas public utility’s electronic bulletin board.

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

“Electric related service” means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of CRA measures at the end user’s premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user’s premises, and the provision of energy consumption measurement and billing services.

“Existing products and/or services” means those products and/or services which an electric and/or gas public utility was offering prior to January 1, 1993, that have been approved by the Board prior to February 9, 1999, or an electric and/or gas public utility is offering on the effective date of the adoption of these standards.

“FERC” means the Federal Energy Regulatory Commission or any successor agency.

“Fully allocated cost” means an allocation of the direct, indirect and other economic costs of all equipment, vehicles, labor, related fringe benefits and overheads, real estate, furniture, fixtures and other personal and administration utilized, and other assets utilized and costs incurred, directly or indirectly in providing competitive services.

“Functional separation” means the formation of a separate business unit by an electric or gas public utility for purposes of offering competitive services permitted by N.J.S.A. 48:3-55(f) or N.J.S.A. 48:3-58(b) of the Act, which separate business unit shall be a related competitive business segment of an electric public utility or gas public utility as defined herein and in the Act.

“Gas public utility” means a public utility, as that term is defined in N.J.S.A. 48:2-13, that distributes gas to end users within this State.

“Gas related service” means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of CRA measures at the end user’s premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user’s premises, and the provision of energy consumption measurement and billing services.

“Individual proprietary information” means a customer’s name, address, telephone number, energy usage and payment history and such other information as the Board, by Order, may determine.

“Joint purchases” means purchases made by a parent or holding company or affiliate thereof for use by one or more affiliates, the fully allocated costs of which are allocated to be paid proportionally by the affiliates, based upon utilization.

“Joint purchases allowed” means purchases not associated with merchant functions, examples of which would be joint purchases of office supplies and telephone services.

“Joint purchases not allowed” means purchases associated with merchant functions, examples of which would be gas and electric purchasing for resale, purchasing of gas transportation and storage capacity, purchasing of electric transmission, systems operations, and marketing.

“kW” means kilowatts or 1,000 watts.

“kWh” means kilowatt-hours or 1,000 watt-hours.

“Long term” means a transaction in excess of 31 days.

“Merchant functions” means the marketing and/or the provision of electric generation service and/or gas supply service to wholesale or retail customers, as opposed to the marketing and/or provision of transmission and distribution services, by an electric and/or gas public utility.

“Person” means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity.

“Products” means goods as defined in the Uniform Commercial Code, N.J.S.A., all other real, personal and intellectual property of whatever being or nature.

“Public posting” means a posting on an electric and/or gas public utility’s EBB, website or other industry recognized and publicly accessible electronic or print medium.