

## CHAPTER 100

AN ACT concerning the licensing of electric power suppliers and supplementing and amending P.L.1999, c.23.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. a. The Legislature finds and declares that:

(1) it is important to ensure that New Jersey electric power customers have adequate protections when participating in the retail electric power supply market;

(2) a well-functioning, retail electric power supply market can provide customers with an increased choice of electric power suppliers, innovative products and services, and lower electric power usage and costs;

(3) an electric power supplier (supplier) is required by law to apply to the Board of Public Utilities (board) for an initial license to do business in the State and annually thereafter for a license renewal;

(4) a supplier is also required by law to procure and maintain an annual surety bond to accompany its application;

(5) any delay in processing a supplier's application will cause the surety bond to expire out of sync with the associated license, causing an additional burden on the board staff reviewing the application and the supplier;

(6) in order to process a request from a consumer to switch to a new supplier, electric public utilities operating in the State require suppliers to provide proof of licensure and without that proof, the processing request may be delayed; and

(7) delays in processing a supplier's license renewal application can have significant impacts on the supplier's ability to bid on contracts to provide service if a supplier cannot demonstrate that its current license is in good standing while its application is pending, especially when the review of its application is delayed.

b. The Legislature therefore determines that:

(1) requiring a supplier to demonstrate to the board in the license application process that it possesses the requisite technical qualifications, a commitment to an ethical business conduct, and the financial strength to fulfill its promises to consumers is critical to ensuring the State's energy market continues to grow without disruption;

(2) New Jersey's consumers should expect that the board reviews a supplier's initial and renewal license application appropriately and that the supplier will meet its obligations related to the service it provides;

(3) a more thoughtful and streamlined licensing process is in order to prevent supplier license application processing delays;

(4) requiring an annual update to the information submitted during the license renewal application, as opposed to requiring virtually duplicative license renewal applications annually thereafter, will ensure that a supplier adheres to New Jersey's strong commitment to consumer protection, ethical business practices, and financial integrity; and

(5) streamlining the supplier application licensing renewal process does not limit a supplier's duty to provide the board with the information necessary to assess a supplier's qualifications to do business in the State while preserving the board's powers to take action to protect consumers.

2. Section 29 of P.L.1999, c.23 (C.48:3-78) is amended to read as follows:

C.48:3-78 Electric power supplier license.

29. a. A person shall not offer to provide or provide electric generation service to retail customers in this State unless that person has applied for, on an application form prescribed by the board, and obtained from the board, pursuant to standards adopted by the board, an electric power supplier license. Persons providing such services on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) shall have 120 days to apply for and receive the requisite license.

b. (1) The board shall issue a license to an electric power supplier that is in compliance with the licensing standards adopted pursuant to subsection c. of this section and upon paying a licensure fee as determined by the board pursuant to subsection h. of this section. An initial license shall expire one year from the date of issuance. Nothing in this section 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 (C.48:3-49 et al.).

(2) A license shall not expire after the effective date of P.L.2019, c.100 so long as the licensee pays to the board, within 30 days before the anniversary date of the last approved licensing application, a license renewal fee, as determined by the board, accompanied by an annual information update on a form prescribed by the board.

(3) The annual information update submitted by a licensed electric power supplier to the board, pursuant to paragraph (2) of this subsection, shall be limited to the following information:

(a) the information required of an electric power supplier pursuant to subsection c. of this section;

(b) a copy of the electric power supplier's most recent quarterly New Jersey sales and use tax report;

(c) the electric power supplier's most recent 12-month and calendar year sales volume in New Jersey, by customer class;

(d) whether the electric power supplier, or any of the electric power supplier's key operating personnel, officers, directors, partners, owners, or listed stockholders have been subject to or are subject to any regulatory investigations or disciplinary proceedings connected with the sale of electricity in any other state or federal jurisdiction;

(e) whether the electric power supplier, or any of the electric power supplier's key operating personnel, officers, directors, partners, owners, or listed stockholders have filed for bankruptcy in the last seven years or are the subject of any current bankruptcy proceedings; and

(f) any certifications necessary, as determined by the board.

c. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, after notice, provision of the opportunity for comment, and public hearing, interim electric power supplier licensing standards within 90 days of the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act." The standards shall include, but need not be limited to, the following requirements that an electric power supplier:

(1) Register with the board, which shall include the filing of basic information pertaining to the supplier, such as name, address, telephone number, and company background and

profile, and a list of the services or products offered by the supplier. A supplier shall provide annual updates of this information to the board. The registration shall also include:

- (a) Evidence of financial integrity;
- (b) Information on any disciplinary proceedings or actions by law enforcement authorities in which the electric power supplier, its subsidiaries, affiliates, or parent has been involved in this State or any other states;
- (c) The ownership interests of the supplier including the interests owned by the supplier and the interests owning the supplier;
- (d) The name and address of the in-State agent of the supplier that is authorized to receive service of process;
- (e) The name and address of the in-State customer service agent for the supplier; and
- (f) The quantity of retail electric sales made in this State during the 12 months preceding the application.

(2) Agree to meet all reliability standards established by the Mid-Atlantic Area Council of the North American Electric Reliability Council or its successor, the PJM Interconnection, L.L.C. independent system operator or its successor, the Federal Energy Regulatory Commission, the board, or any other state, regional, federal, or industry body with authority to establish reliability standards. The board may establish specific standards applicable to electric power suppliers to ensure the adequacy of electric power capacity, if it determines that standards established by any other state, regional, federal, or industry bodies are not sufficient to assure the provision of safe, adequate, proper, and reliable electric generation service to retail customers in this State. Such reliability standards shall ensure bulk power system operations and security, and shall ensure the adequacy of electric power capacity necessary to meet retail loads;

(3) Maintain an office within this State for the purposes of accepting service of process, maintaining such records as the board requires, and ensuring accessibility to the board, consumers, and electric public utilities;

- (4) Maintain a surety bond under terms and conditions as determined by the board;
- (5) Provide a description of the products and services to be rendered;
- (6) Comply with such specific standards of conduct for electric power suppliers as the board shall adopt; and

(7) Provide through legal certification by an officer of the electric power supplier such information as the board or its staff shall require to assist the board in making any determination concerning revocation, suspension, issuance or renewal of the supplier's license pursuant to section 32 of P.L.1999, c.23 (C.48:3-81).

d. An electric public utility shall:

(1) Incorporate by reference the board's licensing requirements in its tariffs for transmission and distribution service;

(2) Apply the licensing requirements and other conditions for access to the transmission and distribution system uniformly to all electric power suppliers; and

(3) Report alleged violations of the board's licensing requirements of which it becomes aware to the board.

e. The board shall establish an alternative dispute resolution program to resolve any licensure or access dispute between an electric power supplier and an electric public utility. The board may establish reasonable fees, not to exceed actual costs, for the provision of alternate dispute resolution services. If informal resolution of the dispute is unsuccessful, the board shall adjudicate the dispute as a contested case pursuant to the "Administrative Procedure Act."

f. The board shall monitor the retail supply market in this State, and shall consider information available from the PJM Interconnection, L.L.C. independent system operator or its successor with respect to the conduct of electric power suppliers. The board shall monitor proposed acquisitions of electric generating facilities by electric power suppliers as it deems necessary, in order to ascertain whether an electric power supplier has or is proposed to have control over electric generating facilities of sufficient number or strategic location to charge non-competitive prices to retail customers in this State. The board shall have the authority to deny, suspend, or revoke an electric power supplier's license, after hearing, if it determines that an electric power supplier has or may acquire such control, or if the electric power supplier's violations of the rules, regulations, or procedures of the PJM Interconnection, L.L.C. independent system operator or its successor may adversely affect the reliability of service to retail customers in this State or may result in retail customers being charged non-competitive prices.

g. The board may establish safety and service quality standards for electric power suppliers, and nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall limit the authority of the board to promulgate such safety or service quality standards or to resolve complaints regarding the quality of electric generation service.

h. The board shall establish, by written order pursuant to subsection c. of this section or by rule, a licensure fee to cover the costs of licensing electric power suppliers. The fee shall include a reasonable surcharge to fund a consumer education program in this State established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

i. Any provision of this act to the contrary notwithstanding, any person acting as an energy agent shall be required to register with the board. This registration shall include, but need not be limited to, the name, address, telephone number, and business affiliation or profile of the energy agent, evidence of financial integrity as determined by the board, and evidence of knowledge of the energy industry. This registration shall be updated annually. Nothing in this subsection shall be construed to limit or exempt an energy agent from liability under any other law pertaining to any activity which an energy agent may engage in.

3. This act shall take effect immediately, but shall remain inoperative for 60 days following the date of enactment.

Approved May 10, 2019.