

CHAPTER 101

AN ACT concerning the licensing of natural gas 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 natural gas customers have adequate protections when participating in the retail natural gas supply market;

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

(3) a natural gas 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, natural gas 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 30 of P.L.1999, c.23 (C.48:3-79) is amended to read as follows:

C.48:3-79 Gas supplier license.

30. a. A person shall not offer to provide or provide gas supply 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, a gas supplier license. A person 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 a gas 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 g. 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.101 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 gas supplier to the board, pursuant to paragraph (2) of this subsection, shall be limited to the following information:

- (a) the information required of a gas supplier pursuant to subsection c. of this section;
- (b) a copy of the gas supplier's most recent quarterly New Jersey sales and use tax report;
- (c) the gas supplier's most recent 12-month and calendar year sales volume in New Jersey, by customer class;
- (d) whether the gas supplier, or any of the gas 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 natural gas in any other state or federal jurisdiction;

(e) whether the gas supplier, or any of the gas 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, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim gas 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 a gas supplier:

(1) Register with the board, which shall include the filing of basic information pertaining to the gas supplier, such as name, address, telephone number, and company background and profile, and a list of the services or products offered by the gas supplier. A gas 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 gas supplier, its subsidiaries, affiliates, or parent has been involved in this State or any other states;

(c) The ownership interests of the gas supplier including the interests owned by the gas supplier and the interests owning the gas supplier;

(d) The name and address of the in-State agent of the gas supplier that is authorized to receive service of process;

(e) The name and address of the in-State customer service agent for the gas supplier;

(f) The quantity of retail gas sales made in this State during the 12 months preceding the application; and

(g) A list of the services or products offered by the gas supplier;

(2) Agree to meet all reliability standards established by 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 gas suppliers to ensure the adequacy of gas 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 gas supply service to retail customers in this State;

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

(4) Maintain a surety bond under terms and conditions approved by the board;

(5) Provide a description of the products and services to be rendered;

(6) Comply with such specific standards of conduct for gas suppliers as the board shall adopt; and

(7) Provide through legal certification by an officer of the gas 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 gas supplier's license pursuant to section 32 of P.L.1999, c.23 (C.48:3-81).

d. A gas public utility shall:

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

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

(3) Not unreasonably deny a licensed gas supplier access to its distribution system; and

(4) 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 a gas supplier and a gas 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 may establish safety and service quality standards for gas 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 gas supply service.

g. 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 gas 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).

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

Approved May 10, 2019.