

(a) The greater the level of aggregate rate reduction provided pursuant to subsections d. and e. of section 4 of this act, the higher the percentage of stranded costs that may be securitized;

(b) The higher the degree of certainty as to the magnitude of the electric public utility's actual stranded costs, the larger the magnitude of transition bonds which may be permitted; and

(c) Based on evidence on the record, such amount will produce substantial and quantifiable savings for the customers of that electric public utility because the amount of the buyout or buydown payment is substantially less than the total projected stranded costs associated with the contract.

d. The board may approve transition bonds with scheduled amortization upon issuance of up to:

(1) Fifteen years if the electric public utility intends to utilize the proceeds from such transition bonds to reduce the stranded costs related to utility-owned generation; or

(2) The remaining term of a power purchase agreement if the electric public utility intends to utilize the proceeds from such transition bonds solely for the purposes and requirements of paragraph (2) of subsection c. of this section.

e. Transition bonds for the purpose and requirements of paragraphs (1) and (2) of subsection c. of this section may be issued in one or more series, in one or more offerings, and each such series may consist of one or more classes of transition bonds.

f. The board shall issue orders with respect to each electric public utility's amortization of stranded costs through the transition bond charges pursuant to this section.

C.48:3-64 Bondable stranded costs rate orders.

15. a. A bondable stranded costs rate order issued by the board pursuant to section 14 of this act shall:

(1) Authorize the electric public utility or other financing entity approved by the board to issue transition bonds to finance the bondable stranded costs and to pledge or assign, sell or otherwise transfer the related bondable transition property without further order of the board, except as provided in paragraph (2) of subsection a. of this section;

(2) Approve the amount of the initial transition bond charge to be imposed upon, charged to and collected and received from the customers of the electric public utility in an amount not less than the amount necessary to fully recover bondable stranded costs, and provide for adjustment in a manner approved by the board of the initial transition bond charge prior to the closing of the related transition bonds to reflect the actual rate of interest thereon and all other costs, including any required overcollateralization, associated with the issuance of such transition bonds; and

(3) Require the electric public utility to obtain the approval of the board or its designee at the time of pricing of the terms and conditions of any transition bonds secured by or payable from the transition bond charges, servicing fees, if any, imposed with respect to the collection of such transition bond charges, or any pledging, assignment, sale or other transfer of bondable transition property in connection with the initial transition bond charge provided in paragraph (2) of subsection a. of this section, including a schedule of payments of principal and interest on the transition bonds, which notice shall be given not later than five business days after issuance and sale of the transition bonds. Notwithstanding any other provision of law, the notice to the board required to be given by the electric public utility in connection with the issuance and sale of transition bonds under this subsection shall not be subject to the provisions of R.S.48:3-7 and R.S.48:3-9 and shall not affect the rights of bondholders.

b. Each bondable stranded costs rate order shall provide for mandatory periodic adjustments by the board of the transition bond charges that are the subject of the bondable stranded costs rate order, upon petition of the affected electric public utility, its assignee or financing entity, to conform the transition bond charges to the schedule of payments of principal and interest on the transition bonds provided to the board by the electric public utility pursuant to subsection a. of this section. Such adjustments shall be made at least annually. Each such adjustment shall be formula-based, shall be in the amount required to ensure receipt of revenues sufficient to provide for the full recovery of bondable stranded costs, including, without limitation, the timely payment of principal of, and interest and acquisition or redemption premium on, transition bonds

issued to finance such bondable stranded costs, which shall be recovered over the term of the transition bonds and in accordance with the schedule of payments of principal and interest on the transition bonds provided to the board by the electric public utility pursuant to subsection a. of this section and shall become effective 30 days after filing thereof with the board absent a determination of manifest error by the board. The electric public utility shall propose such adjustments in a filing with the board at least 30 days in advance of the date upon which it is requested to be effective. The proposed adjustment shall become effective on an interim basis on such date and, in the absence of a board order to the contrary, shall become final 60 days thereafter. Each such adjustment shall be formula-based and shall be in the amount required to ensure receipt of revenues sufficient to provide for the full recovery of bondable stranded costs including, without limitation, the timely payment of principal of, and interest and acquisition or redemption premium on, transition bonds issued to finance such bondable stranded costs, which shall be recovered over the term of the transition bonds and in accordance with the schedule of payments of principal and interest on the transition bonds provided to the board by the electric public utility pursuant to subsection a. of this section. Such periodic adjustments shall not in any way affect the validity or irrevocability of the bondable stranded costs rate order or any sale, assignment or other transfer of or any pledge or security interest granted with respect to the related bondable transition property and shall not affect rights of bondholders.

c. A bondable stranded costs rate order and the authority to meter, charge, collect and receive the transition bond charges authorized thereby shall remain in effect until the related bondable stranded costs, including, without limitation, the principal of, and accrued interest and acquisition or redemption premium on, any transition bonds issued to finance such bondable stranded costs, have been paid in full and all other obligations and undertakings with respect thereto have been fully satisfied. Until the bondable stranded costs, including, without limitation, the principal of, and accrued interest and acquisition or redemption premium on, any transition bonds issued to finance such bondable stranded costs, have been paid in full and all other obligations and undertakings with respect thereto have been fully satisfied, the electric public utility shall be obligated to provide electricity through its transmission and distribution system to its customers and shall have the right to meter, charge, collect and receive the transition bond charges arising therefrom from its customers, which rights and obligations may be assignable solely within the discretion of the electric public utility.

d. Each bondable stranded costs rate order shall provide that any transition bond charges held by the assignee or trustee of the related transition bonds in excess of those amounts necessary to fully recover bondable stranded costs approved in the bondable stranded costs rate order shall be applied as a credit to reduce charges to customers of the electric public utility, except that all bondable stranded costs as quantified in the bondable stranded costs rate orders with respect to the electric public utility shall be aggregated for purposes of determining whether or not the total transition bond charges collected exceed the total bondable stranded costs attributable to such electric public utility and provided, further, that unless the electric public utility can demonstrate to the satisfaction of the board that such credit will result in a recharacterization of the tax, accounting, and other intended characteristics of the transition bonds, including, but not limited to, the following characteristics:

- (1) the recognition of transition bonds as debt on balance sheet of the electric public utility for financial accounting purposes;
- (2) treatment of the transition bonds as debt of the electric public utility or its affiliates for federal income tax purposes;
- (3) treatment of the transfer of bondable transition property by the electric public utility as a true sale for bankruptcy purposes; and
- (4) an adverse impact of the transition bonds on the credit rating of the electric public utility.

e. An electric public utility may commingle the revenues received from amounts charged, collected and received under transition bond charges for bondable stranded costs approved in any one or more bondable stranded costs rate orders with other funds of the electric public utility, which shall in no way affect the validity or irrevocability of any bondable stranded costs rate order issued in connection therewith or any sale, assignment or other transfer of or any

pledge or security interest granted with respect to the bondable transition property created thereby.

f. Except as provided otherwise in this act, all proceedings in connection with the determination of bondable stranded costs, transition bond charges and bondable stranded costs rate orders shall be exempt from the provisions of Title 48 of the Revised Statutes and any regulations promulgated thereunder.

C.48:3-65 Orders become irrevocable upon issuance.

16. a. Notwithstanding any other provision of law, each bondable stranded costs rate order and the transition bond charges authorized therein shall become irrevocable upon the issuance of such order and its becoming effective pursuant to section 19 of this act. The bondable stranded costs rate order, the transition bond charges and the bondable transition property shall constitute a vested, presently existing property right upon the transfer to an assignee and receipt of consideration for such bondable transition property. Following such transfer and receipt of consideration, such property right in bondable transition property shall be vested *ab initio* in such assignee.

b. Neither the board nor any other governmental entity shall have the authority, directly or indirectly, legally or equitably, to rescind, alter, repeal, modify or amend a bondable stranded costs rate order, to revalue, re-evaluate or revise the amount of bondable stranded costs, to determine that the transition bond charges or the revenues required to recover bondable stranded costs are unjust or unreasonable, or in any way to reduce or impair the value of bondable transition property, nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement or termination, provided, however, that nothing in this section shall preclude adjustments of the transition bond charges in accordance with the provisions of paragraph (2) of subsection a. and of subsection b. of section 15 of this act.

C.48:3-66 State pledge to holders of transition bonds; orders not pledge of State's credit.

17. a. The State of New Jersey does hereby pledge and agree with the holders of any transition bonds issued under the authority of this act, with the pledgee, owner or assignee of bondable transition property, with any financing entity which has issued transition bonds with respect to which a bondable stranded costs rate order has been issued and with any person who may enter into agreements with an electric public utility or an assignee or pledgee thereof or a financing entity pursuant to this act, that the State will not limit, alter or impair any bondable transition property or other rights vested in an electric public utility or an assignee or pledgee thereof or a financing entity or vested in the holders of any transition bonds pursuant to a bondable stranded costs rate order until such transition bonds, together with the interest and acquisition or redemption premium, if any, thereon, are fully paid and discharged or until such agreements are fully performed on the part of the electric public utility, any assignee or pledgee thereof or the financing entity or in any way limit, alter, impair or reduce the value or amount of the bondable transition property approved by a bondable stranded costs rate order, provided, however, that nothing in this section shall preclude the adjustment of the transition bond charges in accordance with subsection b. of section 15 of this act. Any financing entity is authorized to include this covenant and undertaking of the State of New Jersey in any documentation with respect to the transition bonds issued thereby.

b. A bondable stranded costs rate order issued under this act does not constitute a debt or liability of the State or of any political subdivision thereof, nor does it constitute a pledge of the full faith and credit of the State or any of its political subdivisions. The issuance of transition bonds under this act shall not directly, indirectly, or contingently obligate the State or any political subdivision thereof to levy or pledge any form of taxation therefor or to make an appropriation for their payment, and any such transition bonds shall be payable solely from the bondable transition property and such other proceeds or property as may be pledged therefor.

C.48:3-67 Customers assessed for transition bond charges.

18. The transition bond charges established by the board in bondable stranded costs rate orders shall be assessed against all customers of the electric public utility, except as provided in

section 28 of this act. Transition bond charges shall be established by the board in accordance with sections 14 and 15 of this act and shall apply equally to each customer of the electric public utility based on the amount of electricity delivered to the customer through the transmission and distribution system of the electric public utility or any successor.

C.48:3-68 Effectiveness of bondable stranded costs rate order.

19. Each bondable stranded costs rate order shall be effective only in accordance with the terms thereof and upon the written consent of the petitioning electric public utility to all such terms.

C.48:3-69 Recourse against issuer only.

20. Transition bonds shall be recourse only to the credit and assets of the issuer of the transition bonds.

C.48:3-70 Electric public utility to maintain records of transition bond charges.

21. An electric public utility shall maintain or cause to be maintained records of transition bond charges which have been assessed and collected by the electric public utility for each bondable stranded costs rate order applicable to the electric public utility. Such electric public utility records and any records of a financing entity shall be made available by the electric public utility for inspection and examination within a reasonable time upon demand therefor by the board or the related financing entity.

C.48:3-71 Issuance of transition bonds; security.

22. a. Electric public utilities or other financing entities may, but are not required to, issue transition bonds authorized by the board in any bondable stranded costs rate order.

b. An electric public utility or its assignee may sell, assign and otherwise transfer all or portions of its interest in bondable transition property to assignees or financing entities in connection with the issuance of transition bonds. In addition, an electric public utility, an assignee or a financing entity may pledge, grant a security interest in, or encumber bondable transition property as collateral for transition bonds.

c. Bondable transition property shall constitute an account and shall constitute presently existing property for all purposes, including for contracts securing transition bonds, whether or not the revenues and proceeds arising with respect thereto have accrued and notwithstanding the fact that the value of the property right may depend upon consumers using electricity or, in those instances where consumers are customers of a particular electric public utility, such electric public utility performing certain services. The validity of any sale, assignment or other transfer of bondable stranded cost shall not be defeated or adversely affected by the commingling by the electric public utility of revenues received from amounts charged, collected and received as transition bond charges with other funds of the electric public utility. Any description of the bondable transition property in a security agreement or financing statement filed with respect to the transfer of such bondable transition property in accordance with N.J.S.12A:9-401 shall be sufficient if it refers to the bondable stranded costs rate order establishing the bondable transition property.

d. A perfected security interest in bondable transition property is a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues and proceeds shall have accrued. The validity and relative priority of a pledge of, or security interest in, bondable transition property shall not be defeated or adversely affected by the commingling by the electric public utility of revenues received from amounts charged, collected and received as transition bond charges with other funds of the electric public utility. Any description of the bondable transition property in a security agreement or financing statement filed with respect to the granting of a security interest in such bondable transition property in accordance with N.J.S.12A:9-401 shall be sufficient if it refers to the bondable stranded costs rate order establishing the bondable transition property.

e. In the event of default by the electric public utility or its assignee in payment of revenues arising with respect to the bondable transition property, and upon the application by the pledgees

or transferees of the bondable transition property, the board or any court of competent jurisdiction shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the bondable transition property, which application shall not limit any other remedies available to the pledgees or transferees by reason of the default. Any such order shall remain in full force and effect notwithstanding any bankruptcy, reorganization or other insolvency proceedings with respect to the debtor, pledgor or transferor of the bondable transition property. Any amounts in excess of amounts necessary to satisfy obligations then outstanding on or related to transition bonds shall be applied in the manner set forth in subsection d. of section 15 of this act.

f. To the extent that any such interest in bondable transition property is so sold or assigned, or is so pledged as collateral, the electric public utility shall be authorized to enter into a contract with the secured party, the assignee or the financing entity providing that the electric public utility shall continue to operate its transmission and distribution system to provide service to its customers, shall impose, charge, collect and receive transition bond charges in respect of the bondable transition property for the benefit and account of the secured party, the assignee or the financing entity, and shall account for and remit such amounts to and for the account of the secured party, the assignee or the financing entity. In the event of a default by the electric public utility in respect of charging, collecting and receiving revenues derived from transition bond charges and upon the application by the secured party, the assignee or the financing entity, the board or any court of competent jurisdiction shall by order designate a trustee or other entity to act in the place of the electric public utility to impose, meter, charge, collect and receive transition bond charges in respect of the bondable transition property for the benefit and account of the pledgee, the assignee or the financing entity. The board may, at its discretion, establish criteria for the selection of any entity that may become a servicer of bondable transition property upon the default or other adverse material change in the financial condition of the electric public utility.

g. An agreement by an assignor of bondable transition property not to assert any defense, claim or set-off against an assignee of the bondable transition property shall be enforceable against the assignor by the assignee and by any successor or subsequent assignee thereof.

C.48:3-72 Transfer of bondable transition property.

23. a. If an agreement by an electric public utility or its assignee to transfer bondable transition property expressly states that the transfer is a sale or other absolute transfer, then, notwithstanding any other provisions of law:

(1) Such transfer shall constitute a sale by the electric public utility or its assignee of all right, title, and interest of the electric public utility or its assignee, as applicable, in and to such bondable transition property;

(2) Such transfer shall constitute a sale or other absolute transfer of, and not a borrowing secured by, such bondable transition property;

(3) Upon execution and delivery of such agreement, the electric public utility or its assignee shall have no right, title or interest in or to such bondable transition property, except to the extent of any retained equity interest permitted by the provisions of this act; and

(4) The characterization of a transfer as a sale or other absolute transfer shall not be affected or impaired in any manner by, among other things: (a) the assignor's retention, or acquisition as part of the assignment transaction or otherwise, of a *pari passu* equity interest in bondable transition property or the fact that only a portion of the bondable transition property is otherwise transferred; (b) the assignor's retention, or acquisition as part of the assignment transaction or otherwise, of a subordinate equity interest or other provision of credit enhancement on terms substantially commensurate with market practices; (c) the fact that the electric public utility acts as the collector or servicer of transition bond charges; (d) the assignor's retention of bare legal title to bondable transition property for the purpose of servicing or supervising the servicing of such property and collections with respect thereto; or (e) treatment of such transfer as a financing for federal, State or local tax purposes or financial accounting purposes.

b. Such transfer shall be perfected against any third party when:

- (1) The board has issued a bondable stranded costs rate order with respect to such bondable transition property;
- (2) Such agreement has been executed and delivered by the electric public utility or its assignee; and
- (3) A financing statement has been filed with respect to the transfer of such bondable transition property in accordance with N.J.S.12A:9-401 et seq.

C.48:3-73 Successor to electric public utility.

24. Any successor to an electric public utility, whether pursuant to any bankruptcy, reorganization or other insolvency proceedings or pursuant to any merger, consolidation or sale or transfer of assets of the electric public utility, by operation of law, as a result of electric power industry restructuring or otherwise, shall perform and satisfy all obligations and be entitled to the same rights of its predecessor electric public utility under this act or the bondable stranded costs rate order or any contract entered into pursuant to this act in the same manner and to the same extent as such predecessor electric public utility, including, but not limited to, charging, collecting, receiving and paying to the person entitled thereto the revenues in respect of the transition bond charges relating to the bondable transition property. Bondable transition property, and any payments in respect to bondable transition property, including, without limitation, transition bond charges, shall not be subject to any setoffs, counterclaims, surcharges or defenses by the electric public utility, any customer, or any other person, in connection with the bankruptcy, insolvency or default of the electric public utility or otherwise.

C.48:3-74 Application for bondable stranded costs rate order not required.

25. Notwithstanding any of the provisions of this act, an electric public utility shall not be obligated under this act to apply to the board for any bondable stranded costs rate order, consent to the terms of any bondable stranded costs rate order, or sell, transfer or pledge any bondable transition property, or issue transition bonds in connection therewith.

The consideration or approval by the board of a petition by any electric public utility under this act, including the periodic adjustment provided in subsection b. of section 15 of this act shall be wholly separate from and shall not be utilized in the board's consideration of any other ratemaking or other proceeding involving the electric public utility except as otherwise provided in this act.

C.48:3-75 Expedited judicial review of bondable stranded costs rate orders.

26. In order to maximize the rate savings to customers of the electric public utility under a bondable stranded costs rate order, which order may be time-sensitive because financial market conditions may affect the feasibility and terms of transition bonds approved for issuance therein, the parties involved in proceedings resulting in such an order shall attempt to expedite judicial review pursuant to the following procedures:

a. Upon the issuance of a bondable stranded costs rate order, the board shall forthwith cause a certified copy of such order to be served upon each party entitled thereto. The electric public utility shall, within 10 days of such service upon it, file with the board its written consent to such order or its objections thereto.

b. Any party to the proceedings resulting in a bondable stranded costs rate order who claims to be aggrieved by such order, including but not limited to any electric public utility which has withheld its consent and objected thereto or any financing entity interested therein, may seek judicial review of such order in accordance with the applicable Rules Governing the Courts of the State of New Jersey and the provisions of this act. Such judicial review shall be the exclusive remedy for the parties involved in a proceeding resulting in a bondable stranded costs rate order and no petition for rehearing to the board shall be made or entertained.

c. Any party seeking judicial review under this section shall file a motion for expedited consideration of the appeal before any appellate court in which an appeal may be pending on the ground that acceleration is warranted because the subject of the appeal involves matters of important public interest.

C.48:3-76 Bondable transition property constitutes an account.

27. a. For purposes of this act, and the Uniform Commercial Code - Secured Transactions, N.J.S.12A:9-101 et seq., bondable transition property, as defined in N.J.S.12A:9-105(1), shall constitute an account. For purposes of this act, and the Uniform Commercial Code - Secured Transactions, N.J.S.12A:9-101 et seq., bondable transition property shall be in existence whether or not the revenues or proceeds in respect thereof have accrued, in accordance with subsection c. of section 22 of this act. The validity, perfection or priority of any security interest in bondable transition property shall not be defeated or adversely affected by changes to the bondable stranded costs rate order or to the transition bond charges payable by any customer. Any description of bondable transition property in a security agreement or other agreement or a financing statement shall be sufficient if it refers to the bondable stranded costs rate order establishing the bondable transition property.

b. In addition to the other rights and remedies provided or authorized by this act, and by the Uniform Commercial Code - Secured Transactions, N.J.S.12A:9-101 et seq., when a debtor is in default under a security agreement and the collateral is bondable transition property, then upon application by the secured party, the board or any court of competent jurisdiction shall order the sequestration and payment to the secured party of all collections and other proceeds of such bondable transition property up to the value of the property. In the event of any conflicts, priority among pledgees, transferees or secured parties shall be determined under chapter 9 of Title 12A of the New Jersey Statutes. The secured party must account to the debtor for any surplus and, unless otherwise agreed, the debtor shall be liable for any deficiency.

C.48:3-77 Charges for sale, delivery of power to off-site customer.

28. a. Whenever an on-site generation facility produces power that is not consumed by the on-site customer, and that power is delivered to an off-site end-use customer in this State, all the following charges shall apply to the sale or delivery of such power to the off-site customer:

- (1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of this act;
- (2) The market transition charge or its equivalent, imposed pursuant to section 13 of this act; and
- (3) The transition bond charge or its equivalent, imposed pursuant to section 18 of this act.

b. None of the following charges shall be imposed on the electricity sold solely to the on-site customer of an on-site generating facility, except pursuant to subsection c. of this section:

- (1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of this act;
- (2) The market transition charge or its equivalent, imposed pursuant to section 13 of this act; and
- (3) The transition bond charge or its equivalent, imposed pursuant to section 18 of this act.

c. Upon finding that generation from on-site generation facilities installed subsequent to the starting date of retail competition as provided in subsection a. of section 5 of this act has, in the aggregate, displaced customer purchases from an electric public utility by an amount such that the kilowatt hours distributed by the electric public utility have been reduced to an amount equal to 92.5 percent of the 1999 kilowatt hours distributed by the electric public utility, the board shall impose, except as provided in subsection d. of this section, the charges listed in subsections a., b., and c. of this section on the on-site customer. Such charges shall not be levied on any power consumption that is displaced by an on-site generation facility that is installed before the date of such finding:

- (1) The societal benefits charge or its equivalent, imposed pursuant to section 12 of this act;
- (2) The market transition charge or its equivalent, imposed pursuant to section 13 of this act; and
- (3) The transition bond charge or its equivalent, imposed pursuant to section 18 of this act.

d. Notwithstanding the provisions of subsection c. of this section, a charge shall not be imposed on power consumption by the on-site customer that is derived from an on-site generation facility:

(1) That the on-site customer or its agent installed on or before the effective date of this act, including any expansion of such a facility for the continued provision of on-site power consumption by the same on-site customer that occurs after the effective date of this act; or

(2) For which the on-site customer or its agent has made, on or before the effective date of this act, substantial financial and contractual commitments in planning and development, including having applied for any appropriate air permit from the Department of Environmental Protection, including any expansion of such a facility for the continued provision of on-site power consumption by the same on-site customer that occurs after the effective date of this act.

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 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 this act shall have 120 days to apply for and receive the requisite license.

b. 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. A license shall expire one year from the date of issuance unless the holder thereof pays to the board, within 30 days before the expiration date, a renewal fee accompanied by a renewal application on a form prescribed by the board. If a licensee has made, in accordance with this section and any applicable board rules or regulations, timely and sufficient application for renewal, the license shall not expire until the application has been reviewed and acted upon by the board. 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 this act.

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 this act. 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 this act.

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 this act 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 may 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 this act.

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.

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 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 this act shall have 120 days to apply for and receive the requisite license.

b. 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. A license shall expire one year from the date of issuance unless the holder thereof pays to the board, within 30 days before the expiration date, a renewal fee accompanied by a renewal application on a form prescribed 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 this act. 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 this act.

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 this act 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 may 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 this act.

C.48:3-80 Investigative power of board relative to suppliers.

31. a. Whenever it shall appear to the board that an electric power supplier or a gas supplier has engaged in, is engaging in, or is about to engage in any act or practice that is in violation of this act, or when the board shall deem it to be in the public interest to inquire whether any such violation may exist, the board may exercise any of the following investigative powers:

(1) Require any person to file, on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of this act;

(2) Examine under oath any person in connection with any act or practice subject to the requirements of this act;

(3) Inspect any premises from which an electric power supplier or a gas supplier conducts business;

(4) Examine any goods, ware, item or facility used in the supply of electric power or gas;

(5) Examine any record, book, document, account, electronic data or paper maintained by or for any electric power supplier or gas supplier;

(6) For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, electronic data, goods, ware, item or facility used or maintained by or for any electric power supplier or gas supplier in the regular course of business. In such cases as may be necessary, the Superior Court may, on application of the board, issue an order sealing items or material subject to this paragraph.

b. If any person shall fail or refuse to file any statement or report or refuse access to premises from which an electric power supplier or a gas supplier conducts business in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the board may apply to the Superior Court and obtain an order:

(1) Adjudging such person in contempt of court;

(2) Granting such other relief as may be required; or

(3) Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

c. Whenever the board finds that a violation by an electric power supplier or a gas supplier of this act, including the unlicensed supplying of electric power or gas, or of any rule or regulation adopted by the board pursuant thereto, has occurred, is occurring or will occur, the board, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice.

C.48:3-81 Revocation, suspension, refusal to issue renew supplier's license.

32. a. The board may revoke, suspend, or refuse to issue or renew an electric power supplier's license or a gas supplier's license at any time upon a finding that the supplier:

- (1) Has obtained a license through fraud, deception or misrepresentation;
- (2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- (3) Has engaged in gross negligence or gross incompetence;
- (4) Has engaged in repeated acts of negligence or incompetence;
- (5) Has engaged in misconduct as may be determined by the board;
- (6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board, has not fulfilled the licensure requirements or is not in compliance with the safety and service quality standards adopted by the board. For the purpose of this subsection, a plea of guilty, *non vult, nolo contendere* or any other such disposition of alleged criminal activity shall be deemed a conviction;
- (7) Has violated any consumer protection law or regulation in this State or any other state or has had its authority to engage in supplying electric power or gas revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- (8) Has violated or failed to comply with the provisions of any law or regulation or order adopted by the board;
- (9) Is incapable, for any good cause, of discharging the functions of an electric power supplier or a gas supplier in a manner consistent with the public health, safety and welfare; or
- (10) Has repeatedly failed to submit completed applications, or parts of such applications, or documentation submitted in conjunction with such applications, required to be filed with the Department of Environmental Protection.

b. The board may, upon a duly verified application alleging an act or practice violating any provision of this act or any rule adopted pursuant thereto, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint when the application made to the board and imminent danger to the public health, safety or welfare, and notice of such application is given to the licensee affected by such order.

C.48:3-82 Additional remedies.

33. a. In addition or as an alternative, as the case may be, to revoking, suspending or refusing to issue or to renew the license of an electric power supplier or a gas supplier, the board may, after notice and opportunity for a hearing:

- (1) Issue a letter of warning, reprimand or censure with regard to any act, conduct or practice that in the judgment of the board, upon consideration of all relevant facts and circumstances, does not warrant the initiation of formal action;
- (2) Assess a civil penalty pursuant to section 34 of this act;
- (3) Order that any person violating any provision of this act or any rule adopted pursuant to this act cease and desist from future violations thereof or take affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- (4) Order any person found to have violated any provision of this act or any rule adopted pursuant thereto to restore to any person aggrieved by an unlawful act or practice any moneys or property, real or personal, or the equivalent value of any property, real or personal, acquired by means of such act or practice; except that the board shall not order restoration in a dollar amount greater than the total value of those monies or property received by a licensee or a licensee's agent or any other person violating the act or rule.

b. In any administrative proceeding commenced on a complaint alleging a violation of this act or of a rule adopted pursuant thereto, the board or the board secretary may issue subpoenas to compel the attendance of witnesses or the production of electronic data, books, records, or documents at the hearing on the complaint.

c. In any action brought pursuant to this act, the board or the court may order the payment of costs for the use of the State.

d. Pursuit of any remedy specified in this section shall not preclude the pursuit of any other remedy, including any civil remedy for damage, provided by any other law. Administrative and judicial remedies provided in this section may be pursued simultaneously.

C.48:3-83 Violations, penalties.

34. Any person who violates any provision of this act shall be liable for a civil penalty of not more than \$5,000 for the first offense, except for a violation of section 37 of this act, for which a person shall be liable for a civil penalty of not more than \$10,000 for the first offense, and not more than \$25,000 for the second and each subsequent offense, for each day that the violation continues. Any civil penalty which may be imposed pursuant to this section may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the board shall consider: the nature, circumstances and gravity of the violation; the degree of the violator's culpability; any history of prior violations; the prospective effect of the penalty on the ability of the violator to conduct business; any good faith effort on the part of the violator in attempting to achieve compliance; the violator's ability to pay the penalty; and other factors the board determines to be appropriate. The amount of the penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged, or may be recovered, if necessary, in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior Court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

C.48:3-84 Rights, remedies, prohibitions; cumulative.

35. a. The rights, remedies and prohibitions accorded by the provisions of this act are in addition to and cumulative of any right, remedy or prohibition accorded by the common law or any statute of this State and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition. The Attorney General and the Division of Consumer Affairs in the Department of Law and Public Safety shall continue to have the authority to enforce civil and criminal violations of the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) or any other applicable law, rule or regulation in connection with the activities of electric power suppliers and gas suppliers.

b. Administrative and judicial remedies provided in this act may be pursued simultaneously.

C.48:3-85 Consumer protection standards.

36. a. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim consumer protection standards for electric power suppliers or gas suppliers within 90 days of the effective date of this act, including, but not limited to, standards for collections, credit, contracts, authorized changes of an energy consumer's electric power supplier or gas supplier, for the prohibition of discriminatory marketing, for advertising and for disclosure. 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."

(1) Contract standards shall include, but not be limited to, requirements that electric power supply contracts or gas supply contracts must conspicuously disclose the duration of the contract; state the price per kilowatt hour or per therm or other pricing determinant approved

by the board; have the customer's written signature or such alternative forms of verification as the board, in consultation with the Division of Consumer Affairs, may permit for switching electric power suppliers or gas suppliers and for contract renewal; and include termination procedures, notice of any fees, and toll-free or local telephone numbers for the electric power supplier or gas supplier and for the board.

(2) Standards for the prohibition of discriminatory marketing standards shall provide at a minimum that a decision made by an electric power supplier or a gas supplier to accept or reject a customer shall not be based on race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location. The board shall adopt reporting requirements to monitor compliance with such standards.

(3) Advertising standards for electric power suppliers or gas suppliers shall provide, at a minimum, that optional charges to the consumer will not be added to any advertised cost per kilowatt hour or per therm, and that the only unit of measurement that may be used in advertisements is cost per kilowatt hour or per therm, unless otherwise approved by the board. If an electric power supplier or gas supplier does not advertise using cost per kilowatt hour or per therm, the electric power supplier or gas supplier shall provide, at the consumer's request, an estimate of the cost per kilowatt hour or per therm. Any optional charges to the consumer shall be identified separately and denoted as optional.

(4) Credit standards shall include, at a minimum, that the credit requirements used to make offer decisions must be the same for all residential customers and that electric power suppliers, gas suppliers and private aggregators not impose unreasonable income or credit requirements.

(5) Billing standards shall include, at a minimum, provisions prohibiting electric public utilities, gas public utilities, electric power suppliers and gas suppliers from charging a fee to residential customers for either the commencement or termination of electric generation service or gas supply service.

b. (1) An electric power supplier, a gas supplier, an electric public utility, and a gas public utility shall not disclose, sell or transfer individual proprietary information, including, but not limited to, a customer's name, address, telephone number, energy usage and electric power payment history, to a third party without the written consent of the customer. Whenever such individual proprietary information is disclosed, sold or transferred, upon the written consent of the customer, it may be used only for the provision of continued electric generation service, electric related service, gas supply service or gas related service to that customer. In the case of a transfer or sale of a business, customer consent shall not be required for the transfer of customer proprietary information to the subsequent owner of the business for maintaining the continuation of such services.

(2) An electric power supplier, a gas supplier, a gas public utility or an electric public utility may use individual proprietary information that it has obtained by virtue of its provision of electric generation service, electric related service, gas supply service or gas related service to:

(a) Initiate, render, bill and collect for such services to the extent otherwise authorized to provide billing and collection services;

(b) Protect the rights or property of the electric power supplier, gas supplier or public utility; and

(c) Protect consumers of such services and other electric power suppliers, gas suppliers or electric and gas public utilities from fraudulent, abusive or unlawful use of, or subscription to, such services.

c. The board shall establish and maintain a database for the purpose of recording customer complaints concerning electric and gas public utilities, electric power suppliers, gas suppliers, private aggregators, and energy agents.

d. The board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall establish, or cause to be established, a multi-lingual electric and gas consumer education program. The goal of the consumer education program shall be to educate residential, small business, and special needs consumers about the implications for consumers of the restructuring of the electric power and gas industries. The consumer education program

shall include, but need not be limited to, the dissemination of information to enable consumers to make informed choices among available electricity and gas services and suppliers, and the communication to consumers of the consumer protection provisions of this act.

The board shall ensure the neutrality of the content and message of advertisements and materials.

The board shall promulgate standards for the recovery of consumer education program costs from customers which include reasonable measures and criteria to judge the success of the program in enhancing customer understanding of retail choice.

C.48:3-86 "Slamming" prevention; penalties.

37. a. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, interim standards for electric power suppliers or gas suppliers, within 90 days of the effective date of this act, to prevent and establish penalties for unauthorized changes of a consumer's electric power supplier or gas supplier, a practice commonly known as "slamming." 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."

b. Standards for the prohibition of unauthorized changes in a customer's electric power supplier or gas supplier shall include:

(1) An electric power supplier, an electric public utility, a gas supplier or a gas public utility shall not cause an unauthorized change in a customer's electric power supplier or gas supplier, a practice known as "slamming." A change in a customer's electric power supplier or gas supplier shall be deemed to be unauthorized unless the customer has done so affirmatively and voluntarily and the supplier has obtained the customer's approval either through a written signature or such alternative forms of verification as the board, in consultation with the Division of Consumer Affairs, may permit;

(2) An electric power supplier, an electric public utility, a gas supplier or a gas public utility shall not fail to cause a change in a customer's electric power supplier or gas supplier, within a period of time determined to be appropriate by the board, when a supplier or utility is in receipt of a change order provided that such change order has been received in a manner that complies with federal and State rules and regulations, including as provided in this subsection;

(3) The acts of an agent of an electric power supplier, an electric public utility, a gas supplier or a gas public utility shall be considered the acts of the electric power supplier, electric public utility, gas supplier or gas public utility.

c. A customer's new electric power supplier, electric public utility, gas supplier or gas public utility shall notify the customer of the change in the customer's electric or gas supplier within 30 days in a manner to be determined by the board.

d. Bills to customers from an electric power supplier, electric public utility, gas supplier or gas public utility shall contain the name and telephone number of each supplier for whom billing is provided, and any other information deemed applicable by the board.

e. In addition to any other penalties, fines or remedies authorized by law, any electric power supplier, electric public utility, gas supplier or gas public utility that violates this section and collects charges for electric power supply or gas supply services from a customer or through an entity providing customer account services shall be liable to the electric power supplier, electric public utility, gas supplier or gas public utility previously selected by the customer in an amount equal to all charges paid by the customer after such violation in accordance with such procedures as the board may prescribe. Any electric power supplier, electric public utility, gas supplier or gas public utility that violates this section shall also be liable for a civil penalty pursuant to section 34 of this act; and the board is hereby authorized to revoke the license of any entity that violates this section.

C.48:3-87 Environmental disclosure requirements.

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

- (1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;
- (2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and
- (3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. 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 Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

- (1) A methodology for disclosure of emissions based on output pounds per megawatt hour;
- (2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and
- (3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

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."

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

- (a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and
- (b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) The board shall adopt an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, if two other states in the PJM power pool comprising at least 40 percent of the retail electric usage in the PJM Interconnection, L.L.C. independent system operator or its successor adopt such standards.

d. 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, after notice, provision of the opportunity for comment, and public hearing, interim renewable energy portfolio standards that shall require:

- (1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I or Class II renewable energy sources; and
- (2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012,

when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection.

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."

e. 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, after notice, provision of the opportunity for comment, and public hearing:

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-discriminatory rates to residential and small commercial customers that generate electricity, on the customer's side of the meter, using wind or solar photovoltaic systems for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Where the amount of electricity generated by the customer-generator plus any kilowatt hour credits held over from the 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 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 power supplier's or basic generation service provider's avoided cost of wholesale power. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering 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 is less; and

(2) safety and power quality interconnection standards for wind and solar photovoltaic systems that shall be eligible for net metering.

Such standards shall take into consideration the standards of other states and the Institute of Electrical and Electronic Engineers and shall allow customers to use a single, non-demand, non-time differentiated meter.

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."

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market.

C.48:3-88 Status of municipal electric utilities.

39. a. A municipal electric corporation, a municipal electric utility, or a cooperative electric utility that existed prior to the effective date of this act shall not be subject to the requirements of this act, except that a local governmental entity may choose to require the municipal electric corporation, municipal electric utility or cooperative electric utility to implement retail choice, or except as otherwise provided in subsection b. of this section.

b. (1) A municipal electric corporation shall become subject to the provisions of this act if it was an exclusive provider of retail power within its municipal boundaries prior to the effective date of this act, and subsequent to the effective date of this act, it chooses to serve retail customers outside of its municipal boundaries.

(2) A municipal electric utility that is subject to board regulation pursuant to R.S.40:62-24 shall become subject to the provisions of this act, if subsequent to the effective date of this act, it chooses to serve retail customers outside of its franchise area.

(3) A cooperative electric utility shall become subject to the provisions of this act, if subsequent to the effective date of this act, it chooses to serve retail customers outside of its franchise area.

c. A municipal electric corporation or cooperative electric utility that becomes subject to the provisions of this act pursuant to paragraphs (1) and (3) of subsection b. of this section shall be subject to regulation as a public utility under Title 48 of the Revised Statutes.

C.48:3-89 Aggregator contracts; bundling restriction; tax treatment.

40. a. A private aggregator may enter into a contract with a licensed electric power supplier or a licensed gas supplier for the provision of any combination of electric generation service, electric related service, gas supply service or gas related service for business customers.

b. A government aggregator may enter into a contract with a licensed electric power supplier or a licensed gas supplier, as provided in section 42 of this act, for the provision of any combination of electric generation service, electric related service, gas supply service or gas related service for its own use or as combined with the use of other government aggregators in a manner provided by law.

c. For residential customers, gas and electric services cannot be bundled until the gas market is opened up for retail competition for that residential customer.

d. Aggregation of electric generation service or gas supply service by a government aggregator shall not be construed to constitute the formation of a municipal electric corporation or a municipal electric utility created subsequent to the effective date of this act solely for purposes of State taxation and shall not exempt the sale of such services or income from that sale from any tax to which the sale or income would otherwise be subject, including but not limited to the sales and use tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) and the corporation business tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.).

C.48:3-90 Registration of private aggregator.

41. a. A private aggregator shall 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. A private aggregator shall provide annual updates of this information to the board. The registration shall also include evidence of financial integrity, as determined by the board, and evidence that the private aggregator has knowledge of the energy industry.

b. Any residential customer that elects to purchase electric generation service or gas supply service, after the implementation of gas unbundling pursuant to section 10 of this act, through a private aggregator must do so affirmatively and voluntarily, either through a written signature or such alternative forms of verification as the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, may permit.

C.48:3-91 Government aggregator.

42. a. Pursuant to the provisions of sections 42 through 45 of this act, a government aggregator may obtain: electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for its own facilities or with other government aggregators; and a government aggregator that is a county or municipality may contract for the provision of electric generation service or gas supply service, either separately or bundled, for the business and residential customers within the territorial jurisdiction of the government aggregator. Such a government aggregator may combine the need for its own facilities for electric generation service or gas supply service with that of business and residential customers.

b. A government aggregator shall purchase electric generation service and gas supply service only from licensed electric power suppliers and licensed gas suppliers.

c. The government aggregator shall enter into the contract for electric generation service,

electric related service, gas supply service or gas related service for its own facilities or with other government aggregators under the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), or the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), as applicable.

d. Nothing in this act shall preclude the State government or any State independent authority or State college from exercising authority to obtain electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for its own facilities on an aggregated basis.

e. Nothing in this section shall preclude a government aggregator from aggregating its own accounts for regulated utility services, including basic generation or gas service.

f. Nothing in this act shall preclude any interstate authority or agency from exercising authority to obtain electric generation service or gas supply service, either separately or bundled, for its own facilities in this State, including tenants in this State and other utility customers in this State at such facilities, on an aggregated basis. By exercising such authority, no interstate authority or agency shall be deemed to be a public utility pursuant to R.S. 48:1-1 et seq.; provided, however, that nothing in this act shall be construed to exempt such authority or agency from the payment of the market transition charge or its equivalent, imposed pursuant to section 13 of this act, the transition bond charge or its equivalent, imposed pursuant to section 18 of this act and any societal benefits charge or its equivalent, which may be imposed pursuant to section 12 of this act, to the same extent that other customers of an electric public utility pay such charges in conjunction with any transmission and distribution service provided by an electric public utility to the authority or agency.

g. Notwithstanding any other provision of this act to the contrary, a private aggregator that is a private institution of higher education may enter into a contract with a licensed electric power supplier other than a municipal electric corporation, a municipal electric utility, or cooperative electric utility for the provision of electric generation service or electric related service, either separately or bundled, including any private aggregator that is a four-year private institution of higher education which is located within the jurisdiction of a municipality that contains a municipal electric corporation or a municipal electric utility. The right hereunder of a four-year private institution of higher education to enter into a contract with a licensed electric power supplier other than the municipal electric corporation or municipal electric utility shall be subject to the condition that the municipal electric corporation or municipal electric utility shall have the right of first refusal to offer a competitive, market-based price for electric power.

h. The "New Jersey School Boards Association," established pursuant to N.J.S.18A:6-45, is authorized to serve as a government aggregator to obtain electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, in accordance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., for members of the association who wish to voluntarily participate.

i. 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, after notice, provision of the opportunity for comment, and public hearing, interim standards governing government energy aggregation programs. 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."

j. No government aggregator shall implement the provisions of section 42, 43, 44, or 45 of this act, as appropriate, prior to the starting date of retail competition pursuant to section 5 of this act, or the date on which the board adopts interim standards pursuant to subsection i. of this section, whichever is earlier.

C.48:3-92 Government energy aggregation programs.

43. Government energy aggregation programs shall be subject to the following provisions:

a. A contract between a government aggregator and a licensed electric power supplier or licensed gas supplier shall include the following provisions:

(1) The specific responsibilities of the government aggregator and the licensed electric power supplier or licensed gas supplier;

(2) The charges, rates, fees, or formulas to be used to determine the charges, rates or fees, to be charged to the energy consumers electing to receive electric generation service or gas supply service pursuant to the government energy aggregation program;

(3) The method and procedures to be followed by the licensed electric power supplier or licensed gas supplier to solicit the affirmative and voluntary written consent of the consumer to participate in the government energy aggregation program including, but not necessarily limited to, mechanisms to educate energy consumers concerning the provisions of the aggregation program;

(4) The proposed terms and conditions of a standard contract between energy consumers and the licensed electric power supplier or licensed gas supplier including, but not necessarily limited to:

(a) The allocation of the risks in connection with the provision of such services between the licensed electric power supplier or licensed gas supplier and the energy consumers receiving such services;

(b) The terms of the proposed contract;

(c) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract;

(d) Default and remedies; and

(e) The allocation of any penalties that may be imposed by any electric public utility or gas public utility as a result of over-delivery of electricity or gas, under-delivery of electricity or gas, or non-performance by the licensed electric power supplier or licensed gas supplier;

(5) The use of government aggregator resources, equipment, systems or employees in connection with such services;

(6) The term of the contract with the government aggregator;

(7) A provision indemnifying and holding the government aggregator harmless from all liabilities, damages and costs associated with any contract between a resident of the government aggregator and the licensed electric power supplier or licensed gas supplier;

(8) The requirements for the provision of a performance bond by the licensed electric power supplier or licensed gas supplier, if so required by the government aggregator;

(9) Procedures to ensure that participation in the aggregation program is the result of an affirmative choice by energy consumers, as evidenced by a written signature, and is consistent with rules and regulations adopted by the board;

(10) Terms and conditions applicable to consumer protection as provided in rules and regulations adopted by the board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety; and

(11) Such other terms and conditions as the government aggregator deems necessary.

b. The award of a contract for a government energy aggregation program shall be based on the most advantageous, price and other factors considered. The governing body shall only award a contract for service to residential customers where the rate is lower than that guaranteed by the State-mandated rate reductions pursuant to section 4 of this act and the price of basic generation service pursuant to section 9 of this act, as determined by the board.

c. No concession fees, finders' fees, or other direct monetary benefit shall be paid to any government aggregator by, or on behalf of, a licensed electric power supplier or licensed gas supplier or broker or energy agent as a result of the contract.

d. A licensed electric power supplier or licensed gas supplier shall be subject to the prohibitions against political contributions in accordance with the provisions of R.S.19:34-45.

e. For any specific time period, a government aggregator may enter into only one contract for the provision of electric generation service and one contract for the provision of gas supply service to the consumers within its territorial jurisdiction.

f. A county government acting as a government aggregator shall not enter into a contract for the provision of a government energy aggregation program that is in competition with any existing contract of any government aggregator within its territorial jurisdiction.

(1) A county government may enter into a contract for a government energy aggregation

program only if one or more constituent municipalities in the county adopt an ordinance authorizing the county to enter into such a contract.

(2) A county government energy aggregation program shall only be conducted for residential and business customers located within the constituent municipalities that have approved participation in the county's government energy aggregation program.

C.48:3-93 Opportunity for participation in government energy aggregation program.

44. A government aggregator that chooses to provide a government energy aggregation program that includes residential or business customers shall provide such residential and business customers the opportunity to participate in a government energy aggregation program on a voluntary basis and in a clear and consistent manner. Any business or residential customer that elects to purchase electric generation service or gas supply service through a government energy aggregation program must do so affirmatively and voluntarily, as evidenced by a signature authorizing the customer's participation in a government energy aggregation program for electric generation service or a gas supply service where the terms and conditions of the program are clearly and plainly articulated in writing to the customer before the customer's signature. Residential and business customers who do not voluntarily and affirmatively choose, as evidenced by a written signature, to participate in a government energy aggregation program shall continue to be entitled to contract with and purchase electric generation service or gas supply service from any corporation or entity authorized by law to engage in the retail sale of such services.

C.48:3-94 Operation of limited governmental energy aggregation program.

45. A government aggregator that is a municipality or a county may, notwithstanding the provisions of section 44 of this act to the contrary, operate a limited government energy aggregation program that provides for the aggregation of residential electric generation service or gas supply service without the initial, affirmative, voluntary, written consent of residential customers for electric generation service or gas supply service, either separately or bundled, in accordance with the following procedures:

a. electric generation service or gas supply service for residential customers may be aggregated together with electric generation service, electric related service, gas supply service or gas related service, either separately or bundled, for the government aggregator's own facilities or with other government aggregators, provided that:

(1) the governing body adopts an ordinance in the case of a municipality, or resolution in the case of a county, indicating its intent to solicit bids for the provision of electric generation service or gas supply service, either separately or bundled, without the affirmative, voluntary, written consent of the residential customer, which approval shall require passage by a majority plus one vote of the full membership of the governing body;

(2) within 15 days of the adoption of such an ordinance or resolution, as appropriate, the governing body provides notice, in a form as determined by the board, to its residential customers advising them of their individual right to affirmatively decline participation in the government energy aggregation program, and providing 30 days for residential customers to respond in writing to the governing body of their decision to affirmatively decline participation in the government energy aggregation program; and

(3) upon expiration of the 30-day period required pursuant to paragraph (2) of subsection a. of this section, the governing body shall determine the number and identity of residential customers who did not affirmatively decline to participate in the government energy aggregation program.

b. (1) The governing body shall commence public bidding pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to receive bids from a licensed electric power supplier or licensed gas supplier, as appropriate, for electric generation service or gas supply service, either separately or bundled, for those residential customers who did not affirmatively decline to participate in the government energy aggregation program pursuant to paragraph (2) of subsection a. of this section, and for electric generation service, electric related service, gas supply service or gas related service, either separately or bundled,

for the government aggregator's own facilities.

(2) Upon receipt of the bids, the governing body shall evaluate the proposals. The governing body shall select a licensed electric power supplier or licensed gas supplier, or both, based on the most advantageous, price and other factors considered. The governing body shall only select a licensed electric power supplier to be awarded a contract for service where the rate is lower than that guaranteed by the State-mandated rate reductions pursuant to section 4 of this act and the price of basic generation service pursuant to section 9 of this act.

c. Upon selection of a licensed electric power supplier or licensed gas supplier, or both, pursuant to subsection b. of this section, the governing body shall enter into a written agreement with the selected licensed supplier. The written agreement shall include:

(1) the contract with the selected licensed electric power supplier or licensed gas supplier, or both, for the government aggregator's own load;

(2) a contract form which shall comply with and include the requirements of subsection a. of section 43 of this act; and

(3) that the written agreement shall not take effect until the proposed contract in paragraph (2) of this subsection is approved by the board.

d. After entering into a written agreement with the selected licensed supplier, the governing body shall submit, to the board for approval, the proposed contract to be entered into by the selected licensed electric power supplier or licensed gas supplier, or both, with each residential customer who affirmatively consents to enter into a contract with the selected licensed electric power supplier or licensed gas supplier, or both. This submission shall include the proposed contract and any other information deemed appropriate by the board.

(1) Within 30 days of receipt of the submission, the board shall determine whether the submission is complete. If it is determined to be incomplete, it shall be returned, forthwith, along with a notice specifying the deficiency or deficiencies. The governing body shall correct the deficiency or deficiencies and resubmit the submission to the board.

(2) Upon being notified by the board that the submission is complete, the governing body shall cause a copy to be forwarded to the Division of the Ratepayer Advocate. Within 45 days of receipt, the Division of the Ratepayer Advocate shall recommend to the board to approve, modify or reject the submission.

(3) The board shall approve, reject or modify the submission within 60 days of the date the submission is deemed complete.

e. Upon approval of the proposed contract to be entered into by the selected licensed electric power supplier or licensed gas supplier, or both, with each residential customer who affirmatively consents to enter into a contract with the selected licensed electric power supplier or licensed gas supplier, or both, the governing body shall authorize the selected licensed electric power supplier or licensed gas supplier, or both, to solicit the affirmative and voluntary written consent to participate in the government energy aggregation program of any residential customer within the municipality who did not initially affirmatively decline to be part of a government energy aggregation program pursuant to the provisions of paragraph (2) of subsection a. of this section.

f. The licensed electric power supplier or licensed gas supplier, or both, selected pursuant to the provisions of this section shall be subject to the provisions of section 37 of this act.

g. Whenever the process results in a change of provider of energy or of price to program participants, the governing body shall give residential customers notice, as determined by the board, of their right to decline continued participation.

h. A government aggregator which is a county may implement the provisions of this section only as authorized pursuant to the provisions of subsection f. of section 43 of this act.

i. The provisions of this section shall only apply to government energy aggregation programs for residential customers.

j. Nothing in this section shall preclude a limited government energy aggregation program from including business customers as participants pursuant to section 44 of this act.

C.48:3-95 Rule adoptions by board.

46. Notwithstanding the 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, after notice, provision of the opportunity for comment, and public hearing, such interim rules and regulations as the board determines to be necessary to effectuate the provisions of this act within 90 days of the effective date of this act. 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."

47. R.S.40:48-1 is amended to read as follows:

Ordinances; general purpose.

40:48-1. Ordinances; general purpose. The governing body of every municipality may make, amend, repeal and enforce ordinances to:

Finances and property. 1. Manage, regulate and control the finances and property, real and personal, of the municipality;

Contracts and contractor's bonds. 2. Prescribe the form and manner of execution and approval of all contracts to be executed by the municipality and of all bonds to be given to it;

Officers and employees; duties, terms and salaries. 3. Prescribe and define, except as otherwise provided by law, the duties and terms of office or employment, of all officers and employees; and to provide for the employment and compensation of such officials and employees, in addition to those provided for by statute, as may be deemed necessary for the efficient conduct of the affairs of the municipality;

Fees. 4. Fix the fees of any officer or employee of the municipality for any service rendered in connection with his office or position, for which no specific fee or compensation is provided. In the case of salaried officers or employees, such fee shall be paid into the municipal treasury;

Salaries instead of fees; disposition of fees. 5. Provide that any officer or employee receiving compensation for his services, in whole or in part by fees, whether paid by the municipality or otherwise, shall be paid a salary to be fixed in the ordinance, and thereafter all fees received by such officer or employee shall be paid into the municipal treasury;

Maintain order. 6. Prevent vice, drunkenness and immorality; to preserve the public peace and order; to prevent and quell riots, disturbances and disorderly assemblages;

Punish beggars; prevention of loitering. 7. Restrain and punish drunkards, vagrants, mendicants and street beggars; to prevent loitering, lounging or sleeping in the streets, parks or public places;

Auctions and noises. 8. Regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and to prevent disturbing noises;

Swimming; bathing costume. 9. Regulate or prohibit swimming or bathing in the waters of, in, or bounding the municipality, and to regulate or prohibit persons from appearing upon the public streets, parks and places clad in bathing costumes or robes, or costumes of a similar character;

Prohibit annoyance of persons or animals. 10. Regulate or prohibit any practice tending to frighten animals, or to annoy or injure persons in the public streets;

Animals; pounds; establishment and regulation. 11. Establish and regulate one or more pounds, and to prohibit or regulate the running at large of horses, cattle, dogs, swine, goats and other animals, and to authorize their impounding and sale for the penalty incurred, and the costs of impounding, keeping and sale; to regulate or prohibit the keeping of cattle, goats or swine in any part of the municipality; to authorize the destruction of dogs running at large therein;

Hucksters. 12. Prescribe and regulate the place of vending or exposing for sale articles of merchandise from vehicles;

Building regulations; wooden structures. 13. Regulate and control the construction, erection, alteration and repair of buildings and structures of every kind within the municipality; and to prohibit, within certain limits, the construction, erection or alteration of buildings or structures of wood or other combustible material;

Inflammable materials; inspect docks and buildings. 14. Regulate the use, storage, sale and disposal of inflammable or combustible materials, and to provide for the protection of life

and property from fire, explosions and other dangers; to provide for inspections of buildings, docks, wharves, warehouses and other places, and of goods and materials contained therein, to secure the proper enforcement of such ordinance;

Dangerous structures; removal or destruction; procedure. 15. Provide for the removal or destruction of any building, wall or structure which is or may become dangerous to life or health, or might tend to extend a conflagration; and to assess the cost thereof as a municipal lien against the premises;

Chimneys and boilers. 16. Regulate the construction and setting up of chimneys, furnaces, stoves, boilers, ovens and other contrivances in which fire is used;

Explosives. 17. Regulate, in conformity with the statutes of this State, the manufacture, storage, sale, keeping or conveying of gunpowder, nitroglycerine, dynamite and other explosives;

Firearms and fireworks. 18. Regulate and prohibit the sale and use of guns, pistols, firearms, and fireworks of all descriptions;

Soft coal. 19. Regulate the use of soft coal in locomotives, factories, power houses and other places;

Theaters, schools, churches and public places. 20. Regulate the use of theaters, cinema houses, public halls, schools, churches, and other places where numbers of people assemble, and the exits therefrom, so that escape therefrom may be easily and safely made in case of fire or panic; and to regulate any machinery, scenery, lights, wires and other apparatus, equipment or appliances used in all places of public amusement;

Excavations. 21. Regulate excavations below the established grade or curb line of any street, not greater than eight feet, which the owner of any land may make, in the erection of any building upon his own property; and to provide for the giving of notice, in writing, of such intended excavation to any adjoining owner or owners, and that they will be required to protect and care for their several foundation walls that may be endangered by such excavation; and to provide that in case of the neglect or refusal, for 10 days, of such adjoining owner or owners to take proper action to secure and protect the foundations of any adjacent building or other structure, that the party or parties giving such notice, or their agents, contractors or employees, may enter into and upon such adjoining property and do all necessary work to make such foundations secure, and may recover the cost of such work and labor in so protecting such adjacent property; and to make such further and other provisions in relation to the proper conduct and performance of said work as the governing body or board of the municipality may deem necessary and proper;

Sample medicines. 22. Regulate and prohibit the distribution, depositing or leaving on the public streets or highways, public places or private property, or at any private place or places within any such municipality, any medicine, medicinal preparation or preparations represented to cure ailments or diseases of the body or mind, or any samples thereof, or any advertisements or circulars relating thereto, but no ordinance shall prohibit a delivery of any such article to any person above the age of 12 years willing to receive the same;

Boating. 23. Regulate the use of motor and other boats upon waters within or bounding the municipality;

Fire escapes. 24. Provide for the erection of fire escapes on buildings in the municipality, and to provide rules and regulations concerning the construction and maintenance of the same, and for the prevention of any obstruction thereof or thereon;

Care of injured employees. 25. Provide for the payment of compensation and for medical attendance to any officer or employee of the municipality injured in the performance of his duty;

Bulkheads and other structures. 26. Fix and determine the lines of bulkheads or other works or structures to be erected, constructed or maintained by the owners of lands facing upon any navigable water in front of their lands, and in front of or along any highway or public lands of said municipality, and to designate the materials to be used, and the type, height and dimensions thereof;

Lifeguard. 27. Establish, maintain, regulate and control a lifeguard upon any beach within or bordering on the municipality;

Appropriation for life-saving apparatus. 28. Appropriate moneys to safeguard people from drowning within its borders, by location of apparatus or conduct of educational work in harmony