

NJ Government Energy Aggregation - Program Summary

The Government Energy Aggregation Act of 2003 (L. 2003, c. 24, "GEA Act"), authorizes municipalities and/or counties of New Jersey to establish Government Energy Aggregation (GEA) programs after passing an ordinance or a resolution. A GEA program allows municipalities, working alone or in a group, to aggregate the energy requirements of residential, commercial and municipal accounts so that the GEA program can purchase energy supply from non-utility sellers of electricity and gas supply (Third Party Suppliers or TPS) at prices lower than the average utility price, with the possibility of added benefits such as higher renewable energy content.

The provisions governing the formation and conduct of GEA programs can be found at N.J.S.A. 48:3-92 - N.J.S.A. 48:3-95. In addition, the Board of Public Utilities' rules for GEA programs can be found in N.J.A.C. 14:4-6, Government Energy Aggregation Programs. If your municipality is considering implementing a GEA program, we recommend that your municipal attorney review the above noted provisions. In addition, you may wish to consider hiring an energy agent / energy consultant who is familiar with New Jersey's government aggregation rules and energy procurement to help you. You can find a list of energy agents / energy consultants on our website at: http://www.nj.gov/bpu/pdf/energy/shopping_forms/energyagents.pdf.

A properly structured GEA program can be beneficial. A GEA program may allow community leaders to help the residents and businesses in their communities save money on the supply portion of their gas and/or electric utility bills. In addition, a GEA program can be designed so that the municipality will not incur any out-of-pocket expenses for consulting fees or professional services. However, please note that while bid specifications can include provisions that the government aggregator (the municipal or county government acting on behalf of business or residential customers within its jurisdiction) shall be reimbursed by the TPS for expenses actually incurred by the government aggregator, in establishing or operating the GEA program, bid specifications cannot include provisions for the payment by a TPS of concession fees, finders' fees or other direct monetary benefits to the government aggregator.

This summary provides references to the major statutes and rules that need to be reviewed as you decide whether to establish a GEA program. It also includes a summary of some of the major steps involved in establishing a GEA program in New Jersey. This information is provided solely as a brief summary, and is not intended to substitute for careful review of the actual statutes and rules.

Major Steps

- **Primary Governing Statutes and Rules:**
 - N.J.S.A. 48:3-92 - N.J.S.A. 48:3-95
 - http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=23447647&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42

- N.J.A.C. 14:4-6
 - <http://www.lexisnexis.com/hottopics/njcode/>
- Local Public Contracts Law, N.J.S.A. 40A: 11-1 et seq., the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., the County College Contracts Law, N.J.S.A. 18A:64A-25.1 et seq., and N.J.A.C. 14:4-6.8. as applicable [N.J.A.C. 14:4-6.3(e)]
- Rules of the Department of Community Affairs - N.J.A.C.5:34-7 [N.J.A.C. 14:4-6.4(b)]

- **Major Steps in Implementing a GEA Program**

- The GEA program must be authorized by municipal ordinance (or county resolution) and provided to the electric and/or gas distribution utility (LDC).
- A government aggregator can act on its own or hire a contractor or consultant to perform on its behalf.
- The government aggregator must advertise for and solicit bids from TPSs interested in providing electricity or gas supply under the GEA program.
- After selecting the winning bidder, the government aggregator can enter into a contract with the selected TPS which can provide that the TPS will reimburse the government aggregator for costs actually incurred by the government aggregator, in establishing or operating the energy aggregation program, as reflected in invoices or vouchers authorized and paid by the government aggregator. However, there shall be no payment by, or on behalf of, the TPS of concession fees, finders' fees or other direct monetary benefits to the government aggregator.
- Each participating municipality must enter into an agreement with the LDC.
- We recommend that the government aggregator initiate an extensive public awareness program in the relevant community.
- Residential Customers are automatically included in the GEA unless they Opt-Out (or are already served by a TPS). However, they can leave the program with 30-days' notice at any time.
- Non-Residential Customers and government entities are excluded unless they Opt-In.
- Key documents must be presented to BPU Staff and the Division of Rate Counsel for review and comment during the process.

- Pricing: A contract providing for electric generation service and/or gas supply service to residential customers shall not be set at a rate for such service that at the time of the contract award, exceeds the benchmark price as described at N.J.A.C. 14:4-6.9(d), unless 1) it exceeds the renewable energy portfolio standards described at N.J.A.C. 14:4-6.9 (d) and 2) the residential customers are notified that the government aggregator is considering a rate that is higher than the benchmark.
- There are two primary types of GEA programs which primarily differ in the timing of notice of eligibility to participate:
 - Option 1 GEA Program
 - All customers are notified by the LDC of their eligibility to participate and Opt-In / Opt-Out before the government aggregator advertises for bids and selects the TPS.
 - The Government Aggregator selects TPS(s) & may seek Staff / Rate Counsel comments regarding TPS contract, prior to entering into the TPS contract and commencement of the program.
 - Option 2 GEA Program
 - Non-Residential customers are notified by the government aggregator of eligibility to participate through public notice and Opt-In before the government aggregator solicits bids and selects the TPS.
 - Residential customers are notified by the government aggregator of their eligibility to participate and option to Opt-Out after the government aggregator selects the TPS.