

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2529**

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**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

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ADOPTED JUNE 10, 2010

**Sponsored by:**

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**District 17 (Middlesex and Somerset)**

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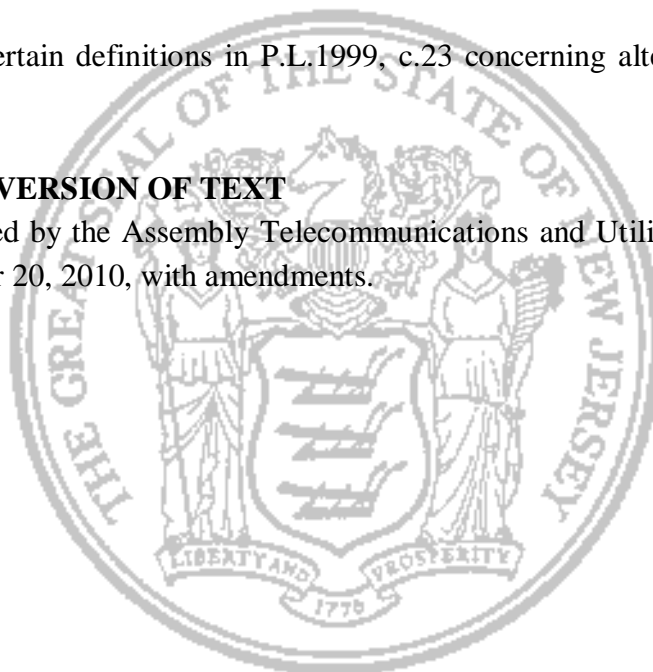
**Assemblymen Albano and Milam**

**SYNOPSIS**

Revises certain definitions in P.L.1999, c.23 concerning alternative energy technologies.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Telecommunications and Utilities Committee on September 20, 2010, with amendments.



**(Sponsorship Updated As Of: 10/19/2010)**

1 AN ACT concerning alternative energy technology and amending  
2 P.L.1999, c.23.

3

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

6

7 <sup>2</sup>[1.Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
8 as follows:

9 3. As used in this act:

10 "Approved alternative technologies" means energy production  
11 technologies that have been approved by the Department of  
12 Environmental Protection, in consultation with the Board of Public  
13 Utilities, as technologies that <sup>1</sup>[promote energy efficiency and  
14 energy conservation or that] <sup>1</sup>reduce <sup>1</sup>[energy supply demand]  
15 fossil fuel use or greenhouse gas emissions<sup>1</sup>;

16 "Assignee" means a person to which an electric public utility or  
17 another assignee assigns, sells or transfers, other than as security,  
18 all or a portion of its right to or interest in bondable transition  
19 property. Except as specifically provided in P.L.1999, c.23  
20 (C.48:3-49 et al.), an assignee shall not be subject to the public  
21 utility requirements of Title 48 or any rules or regulations adopted  
22 pursuant thereto;

23 "Basic gas supply service" means gas supply service that is  
24 provided to any customer that has not chosen an alternative gas  
25 supplier, whether or not the customer has received offers as to  
26 competitive supply options, including, but not limited to, any  
27 customer that cannot obtain such service for any reason, including  
28 non-payment for services. Basic gas supply service is not a  
29 competitive service and shall be fully regulated by the board;

30 "Basic generation service" or "BGS" means electric generation  
31 service that is provided, to any customer that has not chosen an  
32 alternative electric power supplier, whether or not the customer has  
33 received offers for competitive supply options, including, but not  
34 limited to, any customer that cannot obtain such service from an  
35 electric power supplier for any reason, including non-payment for  
36 services. Basic generation service is not a competitive service and  
37 shall be fully regulated by the board;

38 "Basic generation service provider" or "provider" means a  
39 provider of basic generation service;

40 "Basic generation service transition costs" means the amount by  
41 which the payments by an electric public utility for the procurement  
42 of power for basic generation service and related ancillary and  
43 administrative costs exceeds the net revenues from the basic

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted June 21, 2010.

<sup>2</sup>Assembly ATU committee amendments adopted September 20, 2010.

1 generation service charge established by the board pursuant to  
2 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
3 together with interest on the balance at the board-approved rate, that  
4 is reflected in a deferred balance account approved by the board in  
5 an order addressing the electric public utility's unbundled rates,  
6 stranded costs, and restructuring filings pursuant to P.L.1999, c.23  
7 (C.48:3-49 et al.). Basic generation service transition costs shall  
8 include, but are not limited to, costs of purchases from the spot  
9 market, bilateral contracts, contracts with non-utility generators,  
10 parting contracts with the purchaser of the electric public utility's  
11 divested generation assets, short-term advance purchases, and  
12 financial instruments such as hedging, forward contracts, and  
13 options. Basic generation service transition costs shall also include  
14 the payments by an electric public utility pursuant to a competitive  
15 procurement process for basic generation service supply during the  
16 transition period, and costs of any such process used to procure the  
17 basic generation service supply;

18 "Board" means the New Jersey Board of Public Utilities or any  
19 successor agency;

20 "Bondable stranded costs" means any stranded costs or basic  
21 generation service transition costs of an electric public utility  
22 approved by the board for recovery pursuant to the provisions of  
23 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the  
24 board: (1) the cost of retiring existing debt or equity capital of the  
25 electric public utility, including accrued interest, premium and other  
26 fees, costs and charges relating thereto, with the proceeds of the  
27 financing of bondable transition property; (2) if requested by an  
28 electric public utility in its application for a bondable stranded costs  
29 rate order, federal, State and local tax liabilities associated with  
30 stranded costs recovery or basic generation service transition cost  
31 recovery or the transfer or financing of such property or both,  
32 including taxes, whose recovery period is modified by the effect of  
33 a stranded costs recovery order, a bondable stranded costs rate order  
34 or both; and (3) the costs incurred to issue, service or refinance  
35 transition bonds, including interest, acquisition or redemption  
36 premium, and other financing costs, whether paid upon issuance or  
37 over the life of the transition bonds, including, but not limited to,  
38 credit enhancements, service charges, overcollateralization, interest  
39 rate cap, swap or collar, yield maintenance, maturity guarantee or  
40 other hedging agreements, equity investments, operating costs and  
41 other related fees, costs and charges, or to assign, sell or otherwise  
42 transfer bondable transition property;

43 "Bondable stranded costs rate order" means one or more  
44 irrevocable written orders issued by the board pursuant to P.L.1999,  
45 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
46 stranded costs and the initial amount of transition bond charges  
47 authorized to be imposed to recover such bondable stranded costs,

1 including the costs to be financed from the proceeds of the  
2 transition bonds, as well as on-going costs associated with servicing  
3 and credit enhancing the transition bonds, and provides the electric  
4 public utility specific authority to issue or cause to be issued,  
5 directly or indirectly, transition bonds through a financing entity  
6 and related matters as provided in P.L.1999, c.23, which order shall  
7 become effective immediately upon the written consent of the  
8 related electric public utility to such order as provided in P.L.1999,  
9 c.23;

10 "Bondable transition property" means the property consisting of  
11 the irrevocable right to charge, collect and receive, and be paid  
12 from collections of, transition bond charges in the amount necessary  
13 to provide for the full recovery of bondable stranded costs which  
14 are determined to be recoverable in a bondable stranded costs rate  
15 order, all rights of the related electric public utility under such  
16 bondable stranded costs rate order including, without limitation, all  
17 rights to obtain periodic adjustments of the related transition bond  
18 charges pursuant to subsection b. of section 15 of P.L.1999, c.23  
19 (C.48:3-64), and all revenues, collections, payments, money and  
20 proceeds arising under, or with respect to, all of the foregoing;

21 "British thermal unit" or "Btu" means the amount of heat  
22 required to increase the temperature of one pound of water by one  
23 degree Fahrenheit;

24 "Broker" means a duly licensed electric power supplier that  
25 assumes the contractual and legal responsibility for the sale of  
26 electric generation service, transmission or other services to end-use  
27 retail customers, but does not take title to any of the power sold, or  
28 a duly licensed gas supplier that assumes the contractual and legal  
29 obligation to provide gas supply service to end-use retail customers,  
30 but does not take title to the gas;

31 "Buydown" means an arrangement or arrangements involving the  
32 buyer and seller in a given power purchase contract and, in some  
33 cases third parties, for consideration to be given by the buyer in  
34 order to effectuate a reduction in the pricing, or the restructuring of  
35 other terms to reduce the overall cost of the power contract, for the  
36 remaining succeeding period of the purchased power arrangement  
37 or arrangements;

38 "Buyout" means an arrangement or arrangements involving the  
39 buyer and seller in a given power purchase contract and, in some  
40 cases third parties, for consideration to be given by the buyer in  
41 order to effectuate a termination of such power purchase contract;

42 "Class I ~~renewable~~ '~~alternate~~ alternative' energy" means  
43 electric energy produced from:

44 (1) facilities 'connected to the distribution system' utilizing  
45 the following technologies and sources: solar technologies,  
46 photovoltaic technologies, 'solar thermal technologies,' wind  
47 energy, sustainably-fueled fuel cells, geothermal technologies, wave

1 or tidal action, and methane gas from landfills or a biomass facility,  
2 provided that the biomass is cultivated and harvested in a  
3 sustainable manner <sup>1</sup>[, approved alternative technologies, and  
4 technologies that have been developed or deployed under eligible  
5 energy efficiency and energy conservation programs that reduce  
6 energy supply demand]<sup>1</sup>; <sup>1</sup>[or]<sup>1</sup>

7 (2) small scale hydropower facilities connected to the  
8 distribution system with a capacity of three megawatts or less and  
9 put into service after the effective date of P.L. , c. (C. )  
10 (pending before the Legislature as this bill)<sup>1</sup>[.];

11 (3) approved alternative technologies; or

12 (4) industrial by-product technologies consisting of the use of a  
13 by-product from an industrial process, including the reuse of energy  
14 from exhaust gases or other manufacturing by-products that are  
15 used in the direct production of electricity at the facility of a  
16 customer.<sup>1</sup>

17 Whenever any law, rule, regulation, order, contract, tariff,  
18 document, reorganization plan, ruling in the course of a judicial or  
19 administrative proceeding, or other written declaration of legal  
20 rights or obligations, refers to Class I renewable energy, the same  
21 shall mean and refer to "Class I <sup>1</sup>[alternate] alternative<sup>1</sup> energy" <sup>1</sup>,  
22 however, reference to Class I renewable energy in any contracts or  
23 other written agreement in effect prior to the effective date of  
24 P.L. , c. (C. ) (pending before the Legislature as this bill)  
25 shall have the same meaning as it did when such contracts or  
26 written agreements were executed<sup>1</sup>;

27 "Class II [renewable] <sup>1</sup>[alternate] alternative<sup>1</sup> energy" means

28 (1) <sup>1</sup>[thermal or]<sup>1</sup> electric energy from micro-combined heat and  
29 power generating equipment or wastewater treatment facilities,  
30 which <sup>1</sup>[equipment and facilities are connected to the distribution  
31 system] have requested air permits from the Department of  
32 Environmental Protection after the effective date of P.L. ,  
33 c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>, or (2)  
34 electric energy produced at a resource recovery facility, or at a  
35 hydropower facility with a capacity of greater than three megawatts  
36 and less than 30 megawatts, <sup>1</sup>[connected to the distribution  
37 system]<sup>1</sup>, provided that such resource recovery or hydropower  
38 facility is located where retail competition is permitted and  
39 provided further that the Commissioner of Environmental  
40 Protection has determined that such facility meets the highest  
41 environmental standards [and], minimizes any adverse impacts to  
42 the environment and local communities, <sup>1</sup>and that any resource  
43 recovery facility<sup>1</sup> meets this State's applicable air pollution permit  
44 requirements, and maintains a battery recycling program, if  
45 applicable, which substantially meets applicable State standards for  
46 such programs. Whenever any law, rule, regulation, order, contract,

1 tariff, document, reorganization plan, ruling in the course of a  
2 judicial or administrative proceeding or other written declaration of  
3 legal rights or obligations, refers to Class II renewable energy, the  
4 same shall mean and refer to “Class II ‘[alternate] alternative’  
5 energy”<sup>1</sup>, however, reference to Class II renewable energy in any  
6 contracts or other written agreement in effect prior to the effective  
7 date of P.L. , c. (C. ) (pending before the Legislature as this  
8 bill) shall have the same meaning as it did when such contracts or  
9 written agreements were executed<sup>1</sup>;

10 "Co-generation" means the sequential production of electricity  
11 and steam or other forms of useful energy used for industrial or  
12 commercial heating and cooling purposes;

13 "Combined heat and power facility" or "co-generation facility"  
14 means a generation facility which produces electric energy, steam  
15 or other forms of useful energy such as heat, which are used for  
16 industrial or commercial heating or cooling purposes. A combined  
17 heat and power facility or co-generation facility shall not be  
18 considered a public utility;

19 "Competitive service" means any service offered by an electric  
20 public utility or a gas public utility that the board determines to be  
21 competitive pursuant to section 8 or section 10 of P.L.1999, c.23  
22 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

23 "Commercial and industrial energy pricing class customer" or  
24 "CIEP class customer" means that group of non-residential  
25 customers with high peak demand, as determined by periodic board  
26 order, which either is eligible or which would be eligible, as  
27 determined by periodic board order, to receive funds from the Retail  
28 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
29 (C.48:3-57) and for which basic generation service is hourly-priced;

30 "Comprehensive resource analysis" means an analysis including,  
31 but not limited to, an assessment of existing market barriers to the  
32 implementation of energy efficiency and renewable technologies  
33 that are not or cannot be delivered to customers through a  
34 competitive marketplace;

35 “Connected to the distribution system” means <sup>1</sup>(1)<sup>1</sup> connected to  
36 ‘[the] a net metering<sup>1</sup> customer’s side of a meter, regardless of the  
37 voltage at which that customer connects to the electric grid, or  
38 ‘[is]’<sup>1</sup> connected at ‘[less than 100] 69<sup>1</sup> kilovolts ‘[regardless of  
39 how a electric public utility classifies that portion of its  
40 transmission and distribution system] or less<sup>1</sup>, with the exception of  
41 solar facilities that are greater than ten megawatts in capacity and  
42 either not net metered or not an on-site generation facility. Any  
43 proposed solar facility that is greater than ten megawatts in capacity  
44 and either not net metered or not an on-site generation facility shall  
45 require designation by the board, after notice to the public and  
46 opportunity for public comment or hearing, as a facility connected  
47 to the distribution system. In determining such designation, the

1 board shall consider the electric rate benefits and impacts of such  
2 solar facility to customers and its impact on the development of the  
3 solar power and SREC market. Any facility connected above 69  
4 kilovolts shall not be considered connected to the distribution  
5 system<sup>1</sup>;

6 "Customer" means any person that is an end user and is  
7 connected to any part of the transmission and distribution system  
8 within an electric public utility's service territory or a gas public  
9 utility's service territory within this State;

10 "Customer account service" means metering, billing, or such  
11 other administrative activity associated with maintaining a customer  
12 account;

13 "Demand side management" means the management of customer  
14 demand for energy service through the implementation of cost-  
15 effective energy efficiency technologies, including, but not limited  
16 to, installed conservation, load management and energy efficiency  
17 measures on and in the residential, commercial, industrial,  
18 institutional and governmental premises and facilities in this State;

19 "EE certificate" means a certificate issued by the board or its  
20 designee, representing one megawatt hour (MWh) of eligible energy  
21 efficiency and energy conservation and has value based upon, and  
22 driven by, the energy market;<sup>1</sup>

23 "Electric generation service" means the provision of retail  
24 electric energy and capacity which is generated off-site from the  
25 location at which the consumption of such electric energy and  
26 capacity is metered for retail billing purposes, including agreements  
27 and arrangements related thereto;

28 "Electric power generator" means an entity that proposes to  
29 construct, own, lease or operate, or currently owns, leases or  
30 operates, an electric power production facility that will sell or does  
31 sell at least 90 percent of its output, either directly or through a  
32 marketer, to a customer or customers located at sites that are not on  
33 or contiguous to the site on which the facility will be located or is  
34 located. The designation of an entity as an electric power generator  
35 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
36 and of itself, affect the entity's status as an exempt wholesale  
37 generator under the Public Utility Holding Company Act of 1935,  
38 15 U.S.C.s.79 et seq.;

39 "Electric power supplier" means a person or entity that is duly  
40 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et  
41 al.) to offer and to assume the contractual and legal responsibility to  
42 provide electric generation service to retail customers, and includes  
43 load serving entities, marketers and brokers that offer or provide  
44 electric generation service to retail customers. The term excludes an  
45 electric public utility that provides electric generation service only  
46 as a basic generation service pursuant to section 9 of P.L.1999, c.23  
47 (C.48:3-57);

1 "Electric public utility" means a public utility, as that term is  
2 defined in R.S.48:2-13, that transmits and distributes electricity to  
3 end users within this State;

4 "Electric related service" means a service that is directly related  
5 to the consumption of electricity by an end user, including, but not  
6 limited to, the installation of demand side management measures at  
7 the end user's premises, the maintenance, repair or replacement of  
8 appliances, lighting, motors or other energy-consuming devices at  
9 the end user's premises, and the provision of energy consumption  
10 measurement and billing services;

11 "Electronic signature" means an electronic sound, symbol or  
12 process, attached to, or logically associated with, a contract or other  
13 record, and executed or adopted by a person with the intent to sign  
14 the record;

15 "Eligible energy efficiency and energy conservation programs"  
16 means programs <sup>1</sup>subject to measurement and verification standards  
17 adopted by the board which create an EE certificate, and <sup>1</sup>which  
18 utilize demand side management consisting of the management of  
19 customer consumption of electricity or of the demand for or  
20 generation of electricity through the implementation of (1) the  
21 deployment of energy efficiency technologies, management  
22 practices, or other strategies in residential, commercial institutional,  
23 or government customers that reduce electricity consumption by  
24 those customers, (2) load management or demand response  
25 technologies, management practices or other strategies in  
26 residential, commercial, industrial, institutional and government  
27 customers that shift electric load from periods of higher demand to  
28 periods of lower demand, or (3) <sup>1</sup>[industrial by-product  
29 technologies consisting of the use of a by-product from an industrial  
30 process, including the reuse of energy from exhaust gases or] <sup>1</sup>other  
31 <sup>1</sup>[manufacturing by-products that are used in the direct production  
32 of electricity at the facility of a customer] measures determined by  
33 the board to be appropriate <sup>1</sup>;

34 "Energy agent" means a person that is duly registered pursuant to  
35 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the  
36 sale of retail electricity or electric related services or retail gas  
37 supply or gas related services between government aggregators or  
38 private aggregators and electric power suppliers or gas suppliers,  
39 but does not take title to the electric or gas sold;

40 "Energy consumer" means a business or residential consumer of  
41 electric generation service or gas supply service located within the  
42 territorial jurisdiction of a government aggregator;

43 "Energy efficiency portfolio standard" means a requirement to  
44 procure a specified amount of energy efficiency or demand side  
45 management resources as a means of managing and reducing energy  
46 usage and demand by customers;



1 "Energy year" or "EY" means the 12-month period from June 1st  
2 through May 31st and shall be numbered according to the calendar  
3 year in which it ends;

4 "Financing entity" means an electric public utility, a special  
5 purpose entity, or any other assignee of bondable transition  
6 property, which issues transition bonds. Except as specifically  
7 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
8 which is not itself an electric public utility shall not be subject to  
9 the public utility requirements of Title 48 or any rules or regulations  
10 adopted pursuant thereto;

11 "Gas public utility" means a public utility, as that term is defined  
12 in R.S.48:2-13, that distributes gas to end users within this State;

13 "Gas related service" means a service that is directly related to  
14 the consumption of gas by an end user, including, but not limited to,  
15 the installation of demand side management measures at the end  
16 user's premises, the maintenance, repair or replacement of  
17 appliances or other energy-consuming devices at the end user's  
18 premises, and the provision of energy consumption measurement  
19 and billing services;

20 "Gas supplier" means a person that is duly licensed pursuant to  
21 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
22 assume the contractual and legal obligation to provide gas supply  
23 service to retail customers, and includes, but is not limited to,  
24 marketers and brokers. A non-public utility affiliate of a public  
25 utility holding company may be a gas supplier, but a gas public  
26 utility or any subsidiary of a gas utility is not a gas supplier. In the  
27 event that a gas public utility is not part of a holding company legal  
28 structure, a related competitive business segment of that gas public  
29 utility may be a gas supplier, provided that related competitive  
30 business segment is structurally separated from the gas public  
31 utility, and provided that the interactions between the gas public  
32 utility and the related competitive business segment are subject to  
33 the affiliate relations standards adopted by the board pursuant to  
34 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

35 "Gas supply service" means the provision to customers of the  
36 retail commodity of gas, but does not include any regulated  
37 distribution service;

38 "Government aggregator" means any government entity subject  
39 to the requirements of the "Local Public Contracts Law," P.L.1971,  
40 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
41 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
42 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
43 contract with a licensed electric power supplier or a licensed gas  
44 supplier for: (1) the provision of electric generation service, electric  
45 related service, gas supply service, or gas related service for its own  
46 use or the use of other government aggregators; or (2) if a  
47 municipal or county government, the provision of electric

1 generation service or gas supply service on behalf of business or  
2 residential customers within its territorial jurisdiction;

3 "Government energy aggregation program" means a program and  
4 procedure pursuant to which a government aggregator enters into a  
5 written contract for the provision of electric generation service or  
6 gas supply service on behalf of business or residential customers  
7 within its territorial jurisdiction;

8 "Governmental entity" means any federal, state, municipal, local  
9 or other governmental department, commission, board, agency,  
10 court, authority or instrumentality having competent jurisdiction;

11 "Greenhouse gas emissions portfolio standard" means a  
12 requirement that addresses or limits the amount of carbon dioxide  
13 emissions indirectly resulting from the use of electricity as applied  
14 to any electric power suppliers and basic generation service  
15 providers of electricity;

16 "Leakage" means an increase in greenhouse gas emissions  
17 related to generation sources located outside of the State that are not  
18 subject to a state, interstate or regional greenhouse gas emissions  
19 cap or standard that applies to generation sources located within the  
20 State;

21 "Market transition charge" means a charge imposed pursuant to  
22 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
23 utility, at a level determined by the board, on the electric public  
24 utility customers for a limited duration transition period to recover  
25 stranded costs created as a result of the introduction of electric  
26 power supply competition pursuant to the provisions of P.L.1999,  
27 c.23 (C.48:3-49 et al.);

28 "Marketer" means a duly licensed electric power supplier that  
29 takes title to electric energy and capacity, transmission and other  
30 services from electric power generators and other wholesale  
31 suppliers and then assumes the contractual and legal obligation to  
32 provide electric generation service, and may include transmission  
33 and other services, to an end-use retail customer or customers, or a  
34 duly licensed gas supplier that takes title to gas and then assumes  
35 the contractual and legal obligation to provide gas supply service to  
36 an end-use customer or customers;

37 "Micro-combined heat and power generating equipment" means  
38 an integrated, co-generating building heating and electrical power  
39 generation system, operating on any fuel and with any applicable  
40 engine, fuel cell, or other technology, with a rated capacity of at  
41 least one kilowatt and not more than fifty kilowatts electric and any  
42 thermal output at full load, having a design total fuel use efficiency  
43 in the production of heat and electricity of not less than eighty  
44 percent, or at least fifty-one kilowatts electric and not more than  
45 two hundred and fifty kilowatts electric design total fuel use  
46 efficiency in the production of heat and electricity of not less than  
47 sixty-five percent, that annually produces at least two thousand

1 kilowatt hours of useful energy in the form of electricity that may  
2 work in combination with supplemental or parallel conventional  
3 heating systems, that is manufactured, installed and operated in  
4 accordance with applicable government and industry standards, and  
5 that is connected to the electric transmission or distribution system  
6 and operated in conjunction with an electric public utility's  
7 transmission or distribution facilities;

8 "Net proceeds" means proceeds less transaction and other related  
9 costs as determined by the board;

10 "Net revenues" means revenues less related expenses, including  
11 applicable taxes, as determined by the board;

12 "Off-site end use thermal energy services customer" means an  
13 end use customer that purchases thermal energy services from an  
14 on-site generation facility, combined heat and power facility, or co-  
15 generation facility, and that is located on property that is separated  
16 from the property on which the on-site generation facility,  
17 combined heat and power facility, or co-generation facility is  
18 located by more than one easement, public thoroughfare, or  
19 transportation or utility-owned right-of-way;

20 "On-site generation facility" means a generation facility, and  
21 equipment and services appurtenant to electric sales by such facility  
22 to the end use customer located on the property or on property  
23 contiguous to the property on which the end user is located. An on-  
24 site generation facility shall not be considered a public utility. The  
25 property of the end use customer and the property on which the on-  
26 site generation facility is located shall be considered contiguous if  
27 they are geographically located next to each other, but may be  
28 otherwise separated by an easement, public thoroughfare,  
29 transportation or utility-owned right-of-way, or if the end use  
30 customer is purchasing thermal energy services produced by the on-  
31 site generation facility, for use for heating or cooling, or both,  
32 regardless of whether the customer is located on property that is  
33 separated from the property on which the on-site generation facility  
34 is located by more than one easement, public thoroughfare, or  
35 transportation or utility-owned right-of-way;

36 "Person" means an individual, partnership, corporation,  
37 association, trust, limited liability company, governmental entity or  
38 other legal entity;

39 "Private aggregator" means a non-government aggregator that is  
40 a duly-organized business or non-profit organization authorized to  
41 do business in this State that enters into a contract with a duly  
42 licensed electric power supplier for the purchase of electric energy  
43 and capacity, or with a duly licensed gas supplier for the purchase  
44 of gas supply service, on behalf of multiple end-use customers by  
45 combining the loads of those customers;

46 "Public utility holding company" means: (1) any company that,  
47 directly or indirectly, owns, controls, or holds with power to vote,

1 ten percent or more of the outstanding voting securities of an  
2 electric public utility or a gas public utility or of a company which  
3 is a public utility holding company by virtue of this definition,  
4 unless the Securities and Exchange Commission, or its successor,  
5 by order declares such company not to be a public utility holding  
6 company under the Public Utility Holding Company Act of 1935,  
7 15 U.S.C.s.79 et seq., or its successor; or (2) any person that the  
8 Securities and Exchange Commission, or its successor, determines,  
9 after notice and opportunity for hearing, directly or indirectly, to  
10 exercise, either alone or pursuant to an arrangement or  
11 understanding with one or more other persons, such a controlling  
12 influence over the management or policies of an electric public  
13 utility or a gas public utility or public utility holding company as to  
14 make it necessary or appropriate in the public interest or for the  
15 protection of investors or consumers that such person be subject to  
16 the obligations, duties, and liabilities imposed in the Public Utility  
17 Holding Company Act of 1935 or its successor;

18 "Regulatory asset" means an asset recorded on the books of an  
19 electric public utility or gas public utility pursuant to the Statement  
20 of Financial Accounting Standards, No. 71, entitled "Accounting for  
21 the Effects of Certain Types of Regulation," or any successor  
22 standard and as deemed recoverable by the board;

23 "Related competitive business segment of an electric public  
24 utility or gas public utility" means any business venture of an  
25 electric public utility or gas public utility including, but not limited  
26 to, functionally separate business units, joint ventures, and  
27 partnerships, that offers to provide or provides competitive services;

28 "Related competitive business segment of a public utility holding  
29 company" means any business venture of a public utility holding  
30 company, including, but not limited to, functionally separate  
31 business units, joint ventures, and partnerships and subsidiaries, that  
32 offers to provide or provides competitive services, but does not  
33 include any related competitive business segments of an electric  
34 public utility or gas public utility;

35 "Renewable energy certificate" or "REC" means a certificate  
36 representing the environmental benefits or attributes of one  
37 megawatt-hour of generation from a generating facility that  
38 produces Class I or Class II renewable energy, but shall not include  
39 a solar renewable energy certificate;

40 "Resource recovery facility" means a solid waste facility  
41 constructed and operated for the incineration of solid waste for  
42 energy production and the recovery of metals and other materials  
43 for reuse which the Department of Environmental Protection has  
44 determined are in compliance with current environmental standards,  
45 including, but not limited to, all applicable requirements of the  
46 federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

1 "Restructuring related costs" means reasonably incurred costs  
2 directly related to the restructuring of the electric power industry,  
3 including the closure, sale, functional separation and divestiture of  
4 generation and other competitive utility assets by a public utility, or  
5 the provision of competitive services as such costs are determined  
6 by the board, and which are not stranded costs as defined in  
7 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
8 to, investments in management information systems, and which  
9 shall include expenses related to employees affected by  
10 restructuring which result in efficiencies and which result in  
11 benefits to ratepayers, such as training or retraining at the level  
12 equivalent to one year's training at a vocational or technical school  
13 or county community college, the provision of severance pay of two  
14 weeks of base pay for each year of full-time employment, and a  
15 maximum of 24 months' continued health care coverage. Except as  
16 to expenses related to employees affected by restructuring,  
17 "restructuring related costs" shall not include going forward costs;

18 "Retail choice" means the ability of retail customers to shop for  
19 electric generation or gas supply service from electric power or gas  
20 suppliers, or opt to receive basic generation service or basic gas  
21 service, and the ability of an electric power or gas supplier to offer  
22 electric generation service or gas supply service to retail customers,  
23 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

24 "Retail margin" means an amount, reflecting differences in  
25 prices that electric power suppliers and electric public utilities may  
26 charge in providing electric generation service and basic generation  
27 service, respectively, to retail customers, excluding residential  
28 customers, which the board may authorize to be charged to  
29 categories of basic generation service customers of electric public  
30 utilities in this State, other than residential customers, under the  
31 board's continuing regulation of basic generation service pursuant to  
32 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the  
33 purpose of promoting a competitive retail market for the supply of  
34 electricity;

35 "Shopping credit" means an amount deducted from the bill of an  
36 electric public utility customer to reflect the fact that such customer  
37 has switched to an electric power supplier and no longer takes basic  
38 generation service from the electric public utility;

39 "Small scale hydropower facility" means a facility located within  
40 this State and connected to the distribution system, and that meets  
41 the requirements of, and has been certified by, a nationally  
42 recognized low-impact hydropower organization that has  
43 established low-impact hydropower certification criteria applicable  
44 to: (1) river flows; (2) water quality; (3) fish passage and  
45 protection; (4) watershed protection; (5) threatened and endangered  
46 species protection; (6) cultural resource protection; (7) recreation;  
47 and (8) facilities recommended for removal;

1 "Social program" means a program implemented with board  
2 approval to provide assistance to a group of disadvantaged  
3 customers, to provide protection to consumers, or to accomplish a  
4 particular societal goal, and includes, but is not limited to, the  
5 winter moratorium program, utility practices concerning "bad debt"  
6 customers, low income assistance, deferred payment plans,  
7 weatherization programs, and late payment and deposit policies, but  
8 does not include any demand side management program or any  
9 environmental requirements or controls;

10 "Societal benefits charge" means a charge imposed by an electric  
11 public utility, at a level determined by the board, pursuant to, and in  
12 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

13 "Solar alternative compliance payment" or "SACP" means a  
14 payment of a certain dollar amount per megawatt hour (MWh)  
15 which an electric power supplier or provider may submit to the  
16 board in order to comply with the solar electric generation  
17 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

18 "Solar renewable energy certificate" or "SREC" means a  
19 certificate issued by the board or its designee, representing one  
20 megawatt hour (MWh) of solar energy that is generated by a facility  
21 connected to the distribution system in this State and has value  
22 based upon, and driven by, the energy market;

23 "Stranded cost" means the amount by which the net cost of an  
24 electric public utility's electric generating assets or electric power  
25 purchase commitments, as determined by the board consistent with  
26 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the  
27 market value of those assets or contractual commitments in a  
28 competitive supply marketplace and the costs of buydowns or  
29 buyouts of power purchase contracts;

30 "Stranded costs recovery order" means each order issued by the  
31 board in accordance with subsection c. of section 13 of P.L.1999,  
32 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if  
33 any, the board has determined an electric public utility is eligible to  
34 recover and collect in accordance with the standards set forth in  
35 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery  
36 mechanisms therefor;

37 "Thermal efficiency" means the useful electric energy output of a  
38 facility, plus the useful thermal energy output of the facility,  
39 expressed as a percentage of the total energy input to the facility;

40 "Transition bond charge" means a charge, expressed as an  
41 amount per kilowatt hour, that is authorized by and imposed on  
42 electric public utility ratepayers pursuant to a bondable stranded  
43 costs rate order, as modified at any time pursuant to the provisions  
44 of P.L.1999, c.23 (C.48:3-49 et al.);

45 "Transition bonds" means bonds, notes, certificates of  
46 participation or beneficial interest or other evidences of  
47 indebtedness or ownership issued pursuant to an indenture, contract

1 or other agreement of an electric public utility or a financing entity,  
2 the proceeds of which are used, directly or indirectly, to recover,  
3 finance or refinance bondable stranded costs and which are, directly  
4 or indirectly, secured by or payable from bondable transition  
5 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
6 principal, interest, and acquisition or redemption premium with  
7 respect to transition bonds which are issued in the form of  
8 certificates of participation or beneficial interest or other evidences  
9 of ownership shall refer to the comparable payments on such  
10 securities;

11 "Transition period" means the period from August 1, 1999  
12 through July 31, 2003;

13 "Transmission and distribution system" means, with respect to an  
14 electric public utility, any facility or equipment that is used for the  
15 transmission, distribution or delivery of electricity to the customers  
16 of the electric public utility including, but not limited to, the land,  
17 structures, meters, lines, switches and all other appurtenances  
18 thereof and thereto, owned or controlled by the electric public  
19 utility within this State; and

20 "Universal service" means any service approved by the board  
21 with the purpose of assisting low-income residential customers in  
22 obtaining or retaining electric generation or delivery service.

23 (cf: P.L.2009, c.289, s.1)]<sup>2</sup>

24  
25 <sup>2</sup>1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
26 as follows:

27 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

28 "Approved alternative technologies" means energy production  
29 technologies that have been approved by the Department of  
30 Environmental Protection, in consultation with the Board of Public  
31 Utilities, as technologies that reduce fossil fuel use or greenhouse  
32 gas emissions, or geothermal heat pumps and solar thermal energy  
33 technologies provided that the percentage of renewable energy from  
34 geothermal heat pumps and solar thermal energy technologies and  
35 their corresponding values shall be determined by the Department  
36 of Environmental Protection, in consultation with the Board of  
37 Public Utilities;

38 "Assignee" means a person to which an electric public utility or  
39 another assignee assigns, sells or transfers, other than as security,  
40 all or a portion of its right to or interest in bondable transition  
41 property. Except as specifically provided in P.L.1999, c.23  
42 (C.48:3-49 et al.), an assignee shall not be subject to the public  
43 utility requirements of Title 48 or any rules or regulations adopted  
44 pursuant thereto;

45 "Basic gas supply service" means gas supply service that is  
46 provided to any customer that has not chosen an alternative gas  
47 supplier, whether or not the customer has received offers as to

1 competitive supply options, including, but not limited to, any  
2 customer that cannot obtain such service for any reason, including  
3 non-payment for services. Basic gas supply service is not a  
4 competitive service and shall be fully regulated by the board;

5 "Basic generation service" or "BGS" means electric generation  
6 service that is provided, to any customer that has not chosen an  
7 alternative electric power supplier, whether or not the customer has  
8 received offers for competitive supply options, including, but not  
9 limited to, any customer that cannot obtain such service from an  
10 electric power supplier for any reason, including non-payment for  
11 services. Basic generation service is not a competitive service and  
12 shall be fully regulated by the board;

13 "Basic generation service provider" or "provider" means a  
14 provider of basic generation service;

15 "Basic generation service transition costs" means the amount by  
16 which the payments by an electric public utility for the procurement  
17 of power for basic generation service and related ancillary and  
18 administrative costs exceeds the net revenues from the basic  
19 generation service charge established by the board pursuant to  
20 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
21 together with interest on the balance at the board-approved rate, that  
22 is reflected in a deferred balance account approved by the board in  
23 an order addressing the electric public utility's unbundled rates,  
24 stranded costs, and restructuring filings pursuant to P.L.1999, c.23  
25 (C.48:3-49 et al.). Basic generation service transition costs shall  
26 include, but are not limited to, costs of purchases from the spot  
27 market, bilateral contracts, contracts with non-utility generators,  
28 parting contracts with the purchaser of the electric public utility's  
29 divested generation assets, short-term advance purchases, and  
30 financial instruments such as hedging, forward contracts, and  
31 options. Basic generation service transition costs shall also include  
32 the payments by an electric public utility pursuant to a competitive  
33 procurement process for basic generation service supply during the  
34 transition period, and costs of any such process used to procure the  
35 basic generation service supply;

36 "Board" means the New Jersey Board of Public Utilities or any  
37 successor agency;

38 "Bondable stranded costs" means any stranded costs or basic  
39 generation service transition costs of an electric public utility  
40 approved by the board for recovery pursuant to the provisions of  
41 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the  
42 board: (1) the cost of retiring existing debt or equity capital of the  
43 electric public utility, including accrued interest, premium and other  
44 fees, costs and charges relating thereto, with the proceeds of the  
45 financing of bondable transition property; (2) if requested by an  
46 electric public utility in its application for a bondable stranded costs  
47 rate order, federal, State and local tax liabilities associated with



1 stranded costs recovery or basic generation service transition cost  
2 recovery or the transfer or financing of such property or both,  
3 including taxes, whose recovery period is modified by the effect of  
4 a stranded costs recovery order, a bondable stranded costs rate order  
5 or both; and (3) the costs incurred to issue, service or refinance  
6 transition bonds, including interest, acquisition or redemption  
7 premium, and other financing costs, whether paid upon issuance or  
8 over the life of the transition bonds, including, but not limited to,  
9 credit enhancements, service charges, overcollateralization, interest  
10 rate cap, swap or collar, yield maintenance, maturity guarantee or  
11 other hedging agreements, equity investments, operating costs and  
12 other related fees, costs and charges, or to assign, sell or otherwise  
13 transfer bondable transition property;

14 "Bondable stranded costs rate order" means one or more  
15 irrevocable written orders issued by the board pursuant to P.L.1999,  
16 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
17 stranded costs and the initial amount of transition bond charges  
18 authorized to be imposed to recover such bondable stranded costs,  
19 including the costs to be financed from the proceeds of the  
20 transition bonds, as well as on-going costs associated with servicing  
21 and credit enhancing the transition bonds, and provides the electric  
22 public utility specific authority to issue or cause to be issued,  
23 directly or indirectly, transition bonds through a financing entity  
24 and related matters as provided in P.L.1999, c.23, which order shall  
25 become effective immediately upon the written consent of the  
26 related electric public utility to such order as provided in P.L.1999,  
27 c.23;

28 "Bondable transition property" means the property consisting of  
29 the irrevocable right to charge, collect and receive, and be paid  
30 from collections of, transition bond charges in the amount necessary  
31 to provide for the full recovery of bondable stranded costs which  
32 are determined to be recoverable in a bondable stranded costs rate  
33 order, all rights of the related electric public utility under such  
34 bondable stranded costs rate order including, without limitation, all  
35 rights to obtain periodic adjustments of the related transition bond  
36 charges pursuant to subsection b. of section 15 of P.L.1999, c.23  
37 (C.48:3-64), and all revenues, collections, payments, money and  
38 proceeds arising under, or with respect to, all of the foregoing;

39 "British thermal unit" or "Btu" means the amount of heat  
40 required to increase the temperature of one pound of water by one  
41 degree Fahrenheit;

42 "Broker" means a duly licensed electric power supplier that  
43 assumes the contractual and legal responsibility for the sale of  
44 electric generation service, transmission or other services to end-use  
45 retail customers, but does not take title to any of the power sold, or  
46 a duly licensed gas supplier that assumes the contractual and legal

1 obligation to provide gas supply service to end-use retail customers,  
2 but does not take title to the gas;

3 "Buydown" means an arrangement or arrangements involving the  
4 buyer and seller in a given power purchase contract and, in some  
5 cases third parties, for consideration to be given by the buyer in  
6 order to effectuate a reduction in the pricing, or the restructuring of  
7 other terms to reduce the overall cost of the power contract, for the  
8 remaining succeeding period of the purchased power arrangement  
9 or arrangements;

10 "Buyout" means an arrangement or arrangements involving the  
11 buyer and seller in a given power purchase contract and, in some  
12 cases third parties, for consideration to be given by the buyer in  
13 order to effectuate a termination of such power purchase contract;

14 **["Class I renewable energy" means electric energy produced  
15 from solar technologies, photovoltaic technologies, wind energy,  
16 fuel cells, geothermal technologies, wave or tidal action, and  
17 methane gas from landfills or a biomass facility, provided that the  
18 biomass is cultivated and harvested in a sustainable manner;]**

19 "Class I alternative energy" means electric energy produced  
20 from:

21 (1) facilities utilizing the following technologies and sources:  
22 solar technologies, photovoltaic technologies, wind energy,  
23 sustainably-fueled fuel cells, geothermal technologies, wave or tidal  
24 action, and methane gas from landfills or a biomass facility,  
25 provided that the biomass is cultivated and harvested in a  
26 sustainable manner;

27 (2) small scale hydropower facilities connected to the  
28 distribution system with a capacity of three megawatts or less and  
29 put into service after the effective date of P.L. , c. (C. )  
30 (pending before the Legislature as this bill);

31 (3) approved alternative technologies; or

32 (4) industrial by-product technologies consisting of the use of a  
33 by-product from an industrial process, including the reuse of energy  
34 from exhaust gases or other manufacturing by-products that are  
35 used in the direct production of electricity at the facility of a  
36 customer but not including co-generation, unless such co-generation  
37 would otherwise qualify as an industrial by-product technology.

38 Whenever any law, rule, regulation, order, contract, tariff,  
39 document, reorganization plan, ruling in the course of a judicial or  
40 administrative proceeding, or other written declaration of legal  
41 rights or obligations, refers to Class I renewable energy, the same  
42 shall mean and refer to "Class I alternative energy," however,  
43 reference to Class I renewable energy in any contracts or other  
44 written agreement in effect prior to the effective date of P.L. , c.  
45 (C. ) (pending before the Legislature as this bill) shall have the  
46 same meaning as it did when such contracts or written agreements  
47 were executed;

1       ["Class II renewable energy" means electric energy produced at  
2 a resource recovery facility or hydropower facility, provided that  
3 such facility is located where retail competition is permitted and  
4 provided further that the Commissioner of Environmental  
5 Protection has determined that such facility meets the highest  
6 environmental standards and minimizes any impacts to the  
7 environment and local communities;]

8       "Class II alternative energy" means (1) electric energy from  
9 micro-combined heat and power generating equipment or  
10 wastewater treatment facilities, which have requested air permits  
11 from the Department of Environmental Protection after the effective  
12 date of P.L. , c. (C. ) (pending before the Legislature as this  
13 bill), or (2) electric energy produced at a resource recovery facility,  
14 or at a hydropower facility with a capacity of greater than three  
15 megawatts and less than 30 megawatts, provided that such resource  
16 recovery or hydropower facility is located where retail competition  
17 is permitted, and provided further that the Commissioner of  
18 Environmental Protection has determined that such facility meets  
19 the highest environmental standards, minimizes any adverse  
20 impacts to the environment and local communities, and that any  
21 resource recovery facility meets this State's applicable air pollution  
22 permit requirements, and maintains a battery recycling program, if  
23 applicable, which substantially meets applicable State standards for  
24 such programs. Whenever any law, rule, regulation, order, contract,  
25 tariff, document, reorganization plan, ruling in the course of a  
26 judicial or administrative proceeding or other written declaration of  
27 legal rights or obligations, refers to Class II renewable energy, the  
28 same shall mean and refer to "Class II alternative energy," however,  
29 reference to Class II renewable energy in any contracts or other  
30 written agreement in effect prior to the effective date of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill) shall have the  
32 same meaning as it did when such contracts or written agreements  
33 were executed;

34       "Co-generation" means the sequential production of electricity  
35 and steam or other forms of useful energy used for industrial or  
36 commercial heating and cooling purposes;

37       "Combined heat and power facility" or "co-generation facility"  
38 means a generation facility which produces electric energy, steam,  
39 or other forms of useful energy such as heat, which are used for  
40 industrial or commercial heating or cooling purposes. A combined  
41 heat and power facility or co-generation facility shall not be  
42 considered a public utility;

43       "Competitive service" means any service offered by an electric  
44 public utility or a gas public utility that the board determines to be  
45 competitive pursuant to section 8 or section 10 of P.L.1999, c.23  
46 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

1 "Commercial and industrial energy pricing class customer" or  
2 "CIEP class customer" means that group of non-residential  
3 customers with high peak demand, as determined by periodic board  
4 order, which either is eligible or which would be eligible, as  
5 determined by periodic board order, to receive funds from the Retail  
6 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
7 (C.48:3-57) and for which basic generation service is hourly-priced;

8 "Comprehensive resource analysis" means an analysis including,  
9 but not limited to, an assessment of existing market barriers to the  
10 implementation of energy efficiency and renewable technologies  
11 that are not or cannot be delivered to customers through a  
12 competitive marketplace;

13 "Connected to the distribution system" means (1) connected to a  
14 net metering customer's side of a meter, regardless of the voltage at  
15 which that customer connects to the electric grid, or (2) directly  
16 connected to the electric grid at 69 kilovolts or less, regardless of  
17 how an electric public utility classifies that portion of its electric  
18 grid, with the exception of solar facilities that are greater than ten  
19 megawatts in capacity and either not net metered or not an on-site  
20 generation facility. Any facility, other than that of a net metering  
21 customer on the customer's side of the meter, connected above 69  
22 kilovolts shall not be considered connected to the distribution  
23 system. Any proposed solar facility that is greater than ten  
24 megawatts in capacity and either not net metered or not an on-site  
25 generation facility, may be considered "connected to the  
26 distribution system" only upon designation by the board, after  
27 notice to the public and opportunity for public comment or hearing.  
28 In making such designation, the board shall consider, among other  
29 factors, the electric rate benefits and impacts of such solar facility  
30 to customers, its impact on the development of the solar power and  
31 SREC market, and, in consultation with the Department of  
32 Environmental Protection, the land use impact of the facility;

33 "Customer" means any person that is an end user and is  
34 connected to any part of the transmission and distribution system  
35 within an electric public utility's service territory or a gas public  
36 utility's service territory within this State;

37 "Customer account service" means metering, billing, or such  
38 other administrative activity associated with maintaining a customer  
39 account;

40 "Demand side management" means the management of customer  
41 demand for energy service through the implementation of cost-  
42 effective energy efficiency technologies, including, but not limited  
43 to, installed conservation, load management and energy efficiency  
44 measures on and in the residential, commercial, industrial,  
45 institutional and governmental premises and facilities in this State;

46 "EE certificate" means a certificate issued by the board or its  
47 designee, representing one megawatt hour (MWh) of eligible energy

1 efficiency and energy conservation and has value based upon, and  
2 driven by, the energy market;

3 "Electric generation service" means the provision of retail  
4 electric energy and capacity which is generated off-site from the  
5 location at which the consumption of such electric energy and  
6 capacity is metered for retail billing purposes, including agreements  
7 and arrangements related thereto;

8 "Electric power generator" means an entity that proposes to  
9 construct, own, lease or operate, or currently owns, leases or  
10 operates, an electric power production facility that will sell or does  
11 sell at least 90 percent of its output, either directly or through a  
12 marketer, to a customer or customers located at sites that are not on  
13 or contiguous to the site on which the facility will be located or is  
14 located. The designation of an entity as an electric power generator  
15 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
16 and of itself, affect the entity's status as an exempt wholesale  
17 generator under the Public Utility Holding Company Act of 1935,  
18 15 U.S.C. s.79 et seq.;

19 "Electric power supplier" means a person or entity that is duly  
20 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et  
21 al.) to offer and to assume the contractual and legal responsibility to  
22 provide electric generation service to retail customers, and includes  
23 load serving entities, marketers and brokers that offer or provide  
24 electric generation service to retail customers. The term excludes an  
25 electric public utility that provides electric generation service only  
26 as a basic generation service pursuant to section 9 of P.L.1999, c.23  
27 (C.48:3-57);

28 "Electric public utility" means a public utility, as that term is  
29 defined in R.S.48:2-13, that transmits and distributes electricity to  
30 end users within this State;

31 "Electric related service" means a service that is directly related  
32 to the consumption of electricity by an end user, including, but not  
33 limited to, the installation of demand side management measures at  
34 the end user's premises, the maintenance, repair or replacement of  
35 appliances, lighting, motors or other energy-consuming devices at  
36 the end user's premises, and the provision of energy consumption  
37 measurement and billing services;

38 "Electronic signature" means an electronic sound, symbol or  
39 process, attached to, or logically associated with, a contract or other  
40 record, and executed or adopted by a person with the intent to sign  
41 the record;

42 "Eligible energy efficiency and energy conservation programs"  
43 means programs subject to measurement and verification standards  
44 adopted by the board which create an EE certificate, and which  
45 utilize demand side management consisting of the management of  
46 customer consumption of electricity or of the demand for or  
47 generation of electricity through the implementation of (1) the

1 deployment of energy efficiency technologies, management  
2 practices, or other strategies in residential, commercial, industrial,  
3 institutional, or government customers that reduce electricity  
4 consumption by those customers, (2) load management or demand  
5 response technologies, management practices or other strategies in  
6 residential, commercial, industrial, institutional and government  
7 customers that shift electric load from periods of higher demand to  
8 periods of lower demand, or (3) other measures determined by the  
9 board to be appropriate;

10 "Energy agent" means a person that is duly registered pursuant to  
11 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the  
12 sale of retail electricity or electric related services or retail gas  
13 supply or gas related services between government aggregators or  
14 private aggregators and electric power suppliers or gas suppliers,  
15 but does not take title to the electric or gas sold;

16 "Energy consumer" means a business or residential consumer of  
17 electric generation service or gas supply service located within the  
18 territorial jurisdiction of a government aggregator;

19 "Energy efficiency portfolio standard" means a requirement to  
20 procure a specified amount of energy efficiency or demand side  
21 management resources as a means of managing and reducing energy  
22 usage and demand by customers;

23 "Energy year" or "EY" means the 12-month period from June 1st  
24 through May 31st and shall be numbered according to the calendar  
25 year in which it ends;

26 "Financing entity" means an electric public utility, a special  
27 purpose entity, or any other assignee of bondable transition  
28 property, which issues transition bonds. Except as specifically  
29 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
30 which is not itself an electric public utility shall not be subject to  
31 the public utility requirements of Title 48 or any rules or regulations  
32 adopted pursuant thereto;

33 "Gas public utility" means a public utility, as that term is defined  
34 in R.S.48:2-13, that distributes gas to end users within this State;

35 "Gas related service" means a service that is directly related to  
36 the consumption of gas by an end user, including, but not limited to,  
37 the installation of demand side management measures at the end  
38 user's premises, the maintenance, repair or replacement of  
39 appliances or other energy-consuming devices at the end user's  
40 premises, and the provision of energy consumption measurement  
41 and billing services;

42 "Gas supplier" means a person that is duly licensed pursuant to  
43 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
44 assume the contractual and legal obligation to provide gas supply  
45 service to retail customers, and includes, but is not limited to,  
46 marketers and brokers. A non-public utility affiliate of a public  
47 utility holding company may be a gas supplier, but a gas public

1 utility or any subsidiary of a gas utility is not a gas supplier. In the  
2 event that a gas public utility is not part of a holding company legal  
3 structure, a related competitive business segment of that gas public  
4 utility may be a gas supplier, provided that related competitive  
5 business segment is structurally separated from the gas public  
6 utility, and provided that the interactions between the gas public  
7 utility and the related competitive business segment are subject to  
8 the affiliate relations standards adopted by the board pursuant to  
9 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

10 "Gas supply service" means the provision to customers of the  
11 retail commodity of gas, but does not include any regulated  
12 distribution service;

13 "Government aggregator" means any government entity subject  
14 to the requirements of the "Local Public Contracts Law," P.L.1971,  
15 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
16 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
17 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
18 contract with a licensed electric power supplier or a licensed gas  
19 supplier for: (1) the provision of electric generation service, electric  
20 related service, gas supply service, or gas related service for its own  
21 use or the use of other government aggregators; or (2) if a  
22 municipal or county government, the provision of electric  
23 generation service or gas supply service on behalf of business or  
24 residential customers within its territorial jurisdiction;

25 "Government energy aggregation program" means a program and  
26 procedure pursuant to which a government aggregator enters into a  
27 written contract for the provision of electric generation service or  
28 gas supply service on behalf of business or residential customers  
29 within its territorial jurisdiction;

30 "Governmental entity" means any federal, state, municipal, local  
31 or other governmental department, commission, board, agency,  
32 court, authority or instrumentality having competent jurisdiction;

33 "Greenhouse gas emissions portfolio standard" means a  
34 requirement that addresses or limits the amount of carbon dioxide  
35 emissions indirectly resulting from the use of electricity as applied  
36 to any electric power suppliers and basic generation service  
37 providers of electricity;

38 "Leakage" means an increase in greenhouse gas emissions  
39 related to generation sources located outside of the State that are not  
40 subject to a state, interstate or regional greenhouse gas emissions  
41 cap or standard that applies to generation sources located within the  
42 State;

43 "Market transition charge" means a charge imposed pursuant to  
44 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public  
45 utility, at a level determined by the board, on the electric public  
46 utility customers for a limited duration transition period to recover  
47 stranded costs created as a result of the introduction of electric

1 power supply competition pursuant to the provisions of P.L.1999,  
2 c.23 (C.48:3-49 et al.);

3 "Marketer" means a duly licensed electric power supplier that  
4 takes title to electric energy and capacity, transmission and other  
5 services from electric power generators and other wholesale  
6 suppliers and then assumes the contractual and legal obligation to  
7 provide electric generation service, and may include transmission  
8 and other services, to an end-use retail customer or customers, or a  
9 duly licensed gas supplier that takes title to gas and then assumes  
10 the contractual and legal obligation to provide gas supply service to  
11 an end-use customer or customers;

12 "Micro-combined heat and power generating equipment" means  
13 an integrated, co-generating building heating and electrical power  
14 generation system, operating on any fuel and with any applicable  
15 engine, fuel cell, or other technology, with a rated capacity of at  
16 least one kilowatt and not more than fifty kilowatts electric and any  
17 thermal output at full load, having a design total fuel use efficiency  
18 in the production of heat and electricity of not less than eighty  
19 percent, or at least fifty-one kilowatts electric and not more than  
20 two hundred and fifty kilowatts electric design total fuel use  
21 efficiency in the production of heat and electricity of not less than  
22 sixty-five percent, that annually produces at least two thousand  
23 kilowatt hours of useful energy in the form of electricity that may  
24 work in combination with supplemental or parallel conventional  
25 heating systems, that is manufactured, installed and operated in  
26 accordance with applicable government and industry standards, and  
27 that is connected to the electric transmission or distribution system  
28 and operated in conjunction with an electric public utility's  
29 transmission or distribution facilities;

30 "Net proceeds" means proceeds less transaction and other related  
31 costs as determined by the board;

32 "Net revenues" means revenues less related expenses, including  
33 applicable taxes, as determined by the board;

34 "Offshore wind energy" means electric energy produced by a  
35 qualified offshore wind project;

36 "Offshore wind renewable energy certificate" or "OREC" means  
37 a certificate, issued by the board or its designee, representing the  
38 environmental attributes of one megawatt hour of electric  
39 generation from a qualified offshore wind project;

40 "Off-site end use thermal energy services customer" means an  
41 end use customer that purchases thermal energy services from an  
42 on-site generation facility, combined heat and power facility, or co-  
43 generation facility, and that is located on property that is separated  
44 from the property on which the on-site generation facility,  
45 combined heat and power facility, or co-generation facility is  
46 located by more than one easement, public thoroughfare, or  
47 transportation or utility-owned right-of-way;



1 "On-site generation facility" means a generation facility, and  
2 equipment and services appurtenant to electric sales by such facility  
3 to the end use customer located on the property or on property  
4 contiguous to the property on which the end user is located. An on-  
5 site generation facility shall not be considered a public utility. The  
6 property of the end use customer and the property on which the on-  
7 site generation facility is located shall be considered contiguous if  
8 they are geographically located next to each other, but may be  
9 otherwise separated by an easement, public thoroughfare,  
10 transportation or utility-owned right-of-way, or if the end use  
11 customer is purchasing thermal energy services produced by the on-  
12 site generation facility, for use for heating or cooling, or both,  
13 regardless of whether the customer is located on property that is  
14 separated from the property on which the on-site generation facility  
15 is located by more than one easement, public thoroughfare, or  
16 transportation or utility-owned right-of-way;

17 "Person" means an individual, partnership, corporation,  
18 association, trust, limited liability company, governmental entity or  
19 other legal entity;

20 "Private aggregator" means a non-government aggregator that is  
21 a duly-organized business or non-profit organization authorized to  
22 do business in this State that enters into a contract with a duly  
23 licensed electric power supplier for the purchase of electric energy  
24 and capacity, or with a duly licensed gas supplier for the purchase  
25 of gas supply service, on behalf of multiple end-use customers by  
26 combining the loads of those customers;

27 "Public utility holding company" means: (1) any company that,  
28 directly or indirectly, owns, controls, or holds with power to vote,  
29 ten percent or more of the outstanding voting securities of an  
30 electric public utility or a gas public utility or of a company which  
31 is a public utility holding company by virtue of this definition,  
32 unless the Securities and Exchange Commission, or its successor,  
33 by order declares such company not to be a public utility holding  
34 company under the Public Utility Holding Company Act of 1935,  
35 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
36 Securities and Exchange Commission, or its successor, determines,  
37 after notice and opportunity for hearing, directly or indirectly, to  
38 exercise, either alone or pursuant to an arrangement or  
39 understanding with one or more other persons, such a controlling  
40 influence over the management or policies of an electric public  
41 utility or a gas public utility or public utility holding company as to  
42 make it necessary or appropriate in the public interest or for the  
43 protection of investors or consumers that such person be subject to  
44 the obligations, duties, and liabilities imposed in the Public Utility  
45 Holding Company Act of 1935 or its successor;

46 "Qualified offshore wind project" means a wind turbine  
47 electricity generation facility in the Atlantic Ocean and connected

1 to the electric transmission system in this State, and includes the  
2 associated transmission-related interconnection facilities and  
3 equipment, and approved by the board pursuant to section 3 of  
4 P.L.2010, c.57 (C.48:3-87.1);

5 "Regulatory asset" means an asset recorded on the books of an  
6 electric public utility or gas public utility pursuant to the Statement  
7 of Financial Accounting Standards, No. 71, entitled "Accounting for  
8 the Effects of Certain Types of Regulation," or any successor  
9 standard and as deemed recoverable by the board;

10 "Related competitive business segment of an electric public  
11 utility or gas public utility" means any business venture of an  
12 electric public utility or gas public utility including, but not limited  
13 to, functionally separate business units, joint ventures, and  
14 partnerships, that offers to provide or provides competitive services;

15 "Related competitive business segment of a public utility holding  
16 company" means any business venture of a public utility holding  
17 company, including, but not limited to, functionally separate  
18 business units, joint ventures, and partnerships and subsidiaries, that  
19 offers to provide or provides competitive services, but does not  
20 include any related competitive business segments of an electric  
21 public utility or gas public utility;

22 "Renewable energy certificate" or "REC" means a certificate  
23 representing the environmental benefits or attributes of one  
24 megawatt-hour of generation from a generating facility that  
25 produces Class I or Class II renewable energy, but shall not include  
26 a solar renewable energy certificate or an offshore wind renewable  
27 energy certificate;

28 "Resource recovery facility" means a solid waste facility  
29 constructed and operated for the incineration of solid waste for  
30 energy production and the recovery of metals and other materials  
31 for reuse which the Department of Environmental Protection has  
32 determined are in compliance with current environmental standards,  
33 including, but not limited to, all applicable requirements of the  
34 federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

35 "Restructuring related costs" means reasonably incurred costs  
36 directly related to the restructuring of the electric power industry,  
37 including the closure, sale, functional separation and divestiture of  
38 generation and other competitive utility assets by a public utility, or  
39 the provision of competitive services as such costs are determined  
40 by the board, and which are not stranded costs as defined in  
41 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
42 to, investments in management information systems, and which  
43 shall include expenses related to employees affected by  
44 restructuring which result in efficiencies and which result in  
45 benefits to ratepayers, such as training or retraining at the level  
46 equivalent to one year's training at a vocational or technical school  
47 or county community college, the provision of severance pay of two

1 weeks of base pay for each year of full-time employment, and a  
2 maximum of 24 months' continued health care coverage. Except as  
3 to expenses related to employees affected by restructuring,  
4 "restructuring related costs" shall not include going forward costs;

5 "Retail choice" means the ability of retail customers to shop for  
6 electric generation or gas supply service from electric power or gas  
7 suppliers, or opt to receive basic generation service or basic gas  
8 service, and the ability of an electric power or gas supplier to offer  
9 electric generation service or gas supply service to retail customers,  
10 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

11 "Retail margin" means an amount, reflecting differences in  
12 prices that electric power suppliers and electric public utilities may  
13 charge in providing electric generation service and basic generation  
14 service, respectively, to retail customers, excluding residential  
15 customers, which the board may authorize to be charged to  
16 categories of basic generation service customers of electric public  
17 utilities in this State, other than residential customers, under the  
18 board's continuing regulation of basic generation service pursuant to  
19 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the  
20 purpose of promoting a competitive retail market for the supply of  
21 electricity;

22 "Shopping credit" means an amount deducted from the bill of an  
23 electric public utility customer to reflect the fact that such customer  
24 has switched to an electric power supplier and no longer takes basic  
25 generation service from the electric public utility;

26 "Small scale hydropower facility" means a facility located within  
27 this State and connected to the distribution system, and that meets  
28 the requirements of, and has been certified by, a nationally  
29 recognized low-impact hydropower organization that has  
30 established low-impact hydropower certification criteria applicable  
31 to: (1) river flows; (2) water quality; (3) fish passage and  
32 protection; (4) watershed protection; (5) threatened and endangered  
33 species protection; (6) cultural resource protection; (7) recreation;  
34 and (8) facilities recommended for removal;

35 "Social program" means a program implemented with board  
36 approval to provide assistance to a group of disadvantaged  
37 customers, to provide protection to consumers, or to accomplish a  
38 particular societal goal, and includes, but is not limited to, the  
39 winter moratorium program, utility practices concerning "bad debt"  
40 customers, low income assistance, deferred payment plans,  
41 weatherization programs, and late payment and deposit policies, but  
42 does not include any demand side management program or any  
43 environmental requirements or controls;

44 "Societal benefits charge" means a charge imposed by an electric  
45 public utility, at a level determined by the board, pursuant to, and in  
46 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

1 "Solar alternative compliance payment" or "SACP" means a  
2 payment of a certain dollar amount per megawatt hour (MWh)  
3 which an electric power supplier or provider may submit to the  
4 board in order to comply with the solar electric generation  
5 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

6 "Solar renewable energy certificate" or "SREC" means a  
7 certificate issued by the board or its designee, representing one  
8 megawatt hour (MWh) of solar energy that is generated by a facility  
9 connected to the distribution system in this State and has value  
10 based upon, and driven by, the energy market;

11 "Stranded cost" means the amount by which the net cost of an  
12 electric public utility's electric generating assets or electric power  
13 purchase commitments, as determined by the board consistent with  
14 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the  
15 market value of those assets or contractual commitments in a  
16 competitive supply marketplace and the costs of buydowns or  
17 buyouts of power purchase contracts;

18 "Stranded costs recovery order" means each order issued by the  
19 board in accordance with subsection c. of section 13 of P.L.1999,  
20 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if  
21 any, the board has determined an electric public utility is eligible to  
22 recover and collect in accordance with the standards set forth in  
23 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery  
24 mechanisms therefor;

25 "Thermal efficiency" means the useful electric energy output of a  
26 facility, plus the useful thermal energy output of the facility,  
27 expressed as a percentage of the total energy input to the facility;

28 "Transition bond charge" means a charge, expressed as an  
29 amount per kilowatt hour, that is authorized by and imposed on  
30 electric public utility ratepayers pursuant to a bondable stranded  
31 costs rate order, as modified at any time pursuant to the provisions  
32 of P.L.1999, c.23 (C.48:3-49 et al.);

33 "Transition bonds" means bonds, notes, certificates of  
34 participation or beneficial interest or other evidences of  
35 indebtedness or ownership issued pursuant to an indenture, contract  
36 or other agreement of an electric public utility or a financing entity,  
37 the proceeds of which are used, directly or indirectly, to recover,  
38 finance or refinance bondable stranded costs and which are, directly  
39 or indirectly, secured by or payable from bondable transition  
40 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
41 principal, interest, and acquisition or redemption premium with  
42 respect to transition bonds which are issued in the form of  
43 certificates of participation or beneficial interest or other evidences  
44 of ownership shall refer to the comparable payments on such  
45 securities;

46 "Transition period" means the period from August 1, 1999  
47 through July 31, 2003;

1 "Transmission and distribution system" means, with respect to an  
2 electric public utility, any facility or equipment that is used for the  
3 transmission, distribution or delivery of electricity to the customers  
4 of the electric public utility including, but not limited to, the land,  
5 structures, meters, lines, switches and all other appurtenances  
6 thereof and thereto, owned or controlled by the electric public  
7 utility within this State; and

8 "Universal service" means any service approved by the board  
9 with the purpose of assisting low-income residential customers in  
10 obtaining or retaining electric generation or delivery service.<sup>2</sup>

11 (cf: P.L.2010, c.57, s.1)

12  
13 <sup>2</sup>[<sup>1</sup>2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to  
14 read as follows:

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

20 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,  
21 solar, hydroelectric, wind and biomass, or a regional average  
22 determined by the board;

23 (2) Its emissions, in pounds per megawatt hour, of sulfur  
24 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
25 that the board may determine to pose an environmental or health  
26 hazard, or an emissions default to be determined by the board; and

27 (3) Any discrete emission reduction retired pursuant to rules and  
28 regulations adopted pursuant to P.L.1995, c.188.

29 b. Notwithstanding any provisions of the "Administrative  
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
31 contrary, the board shall initiate a proceeding and shall adopt, in  
32 consultation with the Department of Environmental Protection, after  
33 notice and opportunity for public comment and public hearing,  
34 interim standards to implement this disclosure requirement,  
35 including, but not limited to:

36 (1) A methodology for disclosure of emissions based on output  
37 pounds per megawatt hour;

38 (2) Benchmarks for all suppliers and basic generation service  
39 providers to use in disclosing emissions that will enable consumers  
40 to perform a meaningful comparison with a supplier's or basic  
41 generation service provider's emission levels; and

42 (3) A uniform emissions disclosure format that is graphic in  
43 nature and easily understandable by consumers. The board shall  
44 periodically review the disclosure requirements to determine if  
45 revisions to the environmental disclosure system as implemented  
46 are necessary.

1       Such standards shall be effective as regulations immediately  
2 upon filing with the Office of Administrative Law and shall be  
3 effective for a period not to exceed 18 months, and may, thereafter,  
4 be amended, adopted or readopted by the board in accordance with  
5 the provisions of the "Administrative Procedure Act."

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

11       (a) The standard is necessary as part of a plan to enable the  
12 State to meet federal Clean Air Act or State ambient air quality  
13 standards; and

14       (b) Actions at the regional or federal level cannot reasonably be  
15 expected to achieve the compliance with the federal standards.

16       (2) By July 1, 2009, the board shall adopt, pursuant to the  
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), a greenhouse gas emissions portfolio standard to mitigate  
19 leakage or another regulatory mechanism to mitigate leakage  
20 applicable to all electric power suppliers and basic generation  
21 service providers that provide electricity to customers within the  
22 State. The greenhouse gas emissions portfolio standard or any other  
23 regulatory mechanism to mitigate leakage shall:

24       (a) Allow a transition period, either before or after the effective  
25 date of the regulation to mitigate leakage, for a basic generation  
26 service provider or electric power supplier to either meet the  
27 emissions portfolio standard or other regulatory mechanism to  
28 mitigate leakage, or to transfer any customer to a basic generation  
29 service provider or electric power supplier that meets the emissions  
30 portfolio standard or other regulatory mechanism to mitigate  
31 leakage. If the transition period allowed pursuant to this  
32 subparagraph occurs after the implementation of an emissions  
33 portfolio standard or other regulatory mechanism to mitigate  
34 leakage, the transition period shall be no longer than three years;  
35 and

36       (b) Exempt the provision of basic generation service pursuant to  
37 a basic generation service purchase and sale agreement effective  
38 prior to the date of the regulation.

39       Unless the Attorney General or the Attorney General's designee  
40 determines that a greenhouse gas emissions portfolio standard  
41 would unconstitutionally burden interstate commerce or would be  
42 preempted by federal law, the adoption by the board of an electric  
43 energy efficiency portfolio standard pursuant to subsection g. of this  
44 section, a gas energy efficiency portfolio standard pursuant to  
45 subsection h. of this section, or any other enhanced energy  
46 efficiency policies to mitigate leakage shall not be considered  
47 sufficient to fulfill the requirement of this subsection for the

1 adoption of a greenhouse gas emissions portfolio standard or any  
2 other regulatory mechanism to mitigate leakage.

3 d. Notwithstanding any provisions of the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
5 contrary, the board shall initiate a proceeding and shall adopt, after  
6 notice, provision of the opportunity for comment, and public  
7 hearing, renewable energy portfolio standards that shall require:

8 (1) that two and one-half percent of the kilowatt hours sold in  
9 this State by each electric power supplier and each basic generation  
10 service provider be from Class I or Class II renewable energy  
11 sources; **[and]**

12 (2) beginning on January 1, 2001, that one-half of one percent  
13 of the kilowatt hours sold in this State by each electric power  
14 supplier and each basic generation service provider be from Class I  
15 renewable energy sources. The board shall increase the required  
16 percentage for Class I renewable energy sources so that by January  
17 1, 2006, one percent of the kilowatt hours sold in this State by each  
18 electric power supplier and each basic generation service provider  
19 shall be from Class I renewable energy sources and shall  
20 additionally increase the required percentage for Class I renewable  
21 energy sources by one-half of one percent each year until January 1,  
22 2012, when four percent of the kilowatt hours sold in this State by  
23 each electric power supplier and each basic generation service  
24 provider shall be from Class I renewable energy sources**[.**

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

29 and

30 (3) that the board establish a multi-year schedule, applicable to  
31 each electric power supplier or basic generation service provider in  
32 this State, beginning with the one-year period commencing on June  
33 1, 2010, and continuing for each subsequent one-year period up to  
34 and including, the one-year period commencing on June 1, 2025,  
35 that requires suppliers or providers to purchase at least the  
36 following number of kilowatt-hours from solar electric power  
37 generators connected to the distribution system in this State:

38 EY 2011	306 Gigawatthours (Gwhrs)
39 EY 2012	442 Gwhrs
40 EY 2013	596 Gwhrs
41 EY 2014	772 Gwhrs
42 EY 2015	965 Gwhrs
43 EY 2016	1,150 Gwhrs
44 EY 2017	1,357 Gwhrs
45 EY 2018	1,591 Gwhrs
46 EY 2019	1,858 Gwhrs
47 EY 2020	2,164 Gwhrs

1 EY 2021 2,518 Gwhrs  
2 EY 2022 2,928 Gwhrs  
3 EY 2023 3,433 Gwhrs  
4 EY 2024 3,989 Gwhrs  
5 EY 2025 4,610 Gwhrs  
6 EY 2026 5,316 Gwhrs  
7 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs  
8 per energy year to reflect an increasing number of kilowatt-hours to  
9 be purchased by suppliers or providers from solar electric power  
10 generators connected to the distribution system in this State, and to  
11 establish a framework within which suppliers and providers shall  
12 purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316  
13 Gwhrs in the energy year 2026 from solar electric power generators  
14 in this State, provided, however, that the number of solar kilowatt-  
15 hours required to be purchased by each supplier or provider, when  
16 expressed as a percentage of the total number of solar kilowatt-  
17 hours purchased in this State, shall be equivalent to each supplier's  
18 or provider's proportionate share of the total number of kilowatt-  
19 hours sold in this State by all suppliers and providers.

20 The solar renewable portfolio standards requirements in  
21 paragraph (3) of this subsection shall automatically increase by 20%  
22 for the remainder of the schedule in the event that the following two  
23 conditions are met: (a) the number of SRECs generated meets or  
24 exceeds the requirement for three consecutive reporting years,  
25 starting with energy year 2013; and (b) the average SREC price for  
26 all SRECs purchased by entities with renewable energy portfolio  
27 standards obligations has decreased in the same three consecutive  
28 reporting years. The board shall exempt providers' existing supply  
29 contracts that are: (a) effective prior to the date of P.L.2009, c.289;  
30 or (b) effective prior to any future increase in the solar renewable  
31 portfolio standard beyond the multi-year schedule established in  
32 paragraph (3) of this subsection. This exemption shall apply to the  
33 number of SRECs that exceeds the number mandated by the solar  
34 renewable portfolio standards requirements that were in effect on  
35 the date that the providers executed their existing supply contracts.  
36 This limited exemption for providers' existing supply contracts shall  
37 not be construed to lower the Statewide solar purchase requirements  
38 set forth in paragraph (3) of this subsection. Such incremental new  
39 requirements shall be distributed over the electric power suppliers  
40 and providers not subject to the existing supply contract exemption  
41 until such time as existing supply contracts expire and all suppliers  
42 are subject to the new requirement.

43 An electric power supplier or basic generation service provider  
44 may satisfy the requirements of this subsection by participating in a  
45 renewable energy trading program approved by the board in  
46 consultation with the Department of Environmental Protection, or  
47 compliance with the requirements of this subsection may be



1 demonstrated to the board by suppliers or providers through the  
2 purchase of SRECs.

3 The renewable energy portfolio standards adopted by the board  
4 pursuant to paragraphs (1) and (2) of this subsection shall be  
5 effective as regulations immediately upon filing with the Office of  
6 Administrative Law and shall be effective for a period not to exceed  
7 18 months, and may, thereafter, be amended, adopted or readopted  
8 by the board in accordance with the provisions of the  
9 "Administrative Procedure Act."

10 The renewable energy portfolio standards adopted by the board  
11 pursuant to paragraph (3) of this subsection shall be effective as  
12 regulations immediately upon filing with the Office of  
13 Administrative Law and shall be effective for a period not to exceed  
14 30 months after such filing, and shall, thereafter, be amended,  
15 adopted or readopted by the board in accordance with the  
16 "Administrative Procedure Act."

17 No later than December 31, 2010, the board shall review the  
18 amount of Class I alternative energy required to be purchased by  
19 providers and suppliers in each energy year beginning in 2014 and  
20 determine whether the current standards are sufficient for  
21 supporting the development of additional Class I alternative energy  
22 resources. If the board determines that increasing the Class I  
23 alternative energy standard in 2014 and beyond is necessary to  
24 support the development of additional Class I alternative energy  
25 resources, then after opportunity for public comment and public  
26 hearing, the board shall adopt regulations that (a) increase the  
27 amount of Class I alternative energy required to be purchased by  
28 suppliers and providers in 2014 and beyond; (b) consider the cost  
29 impact of such increase on ratepayers; and (c) exempt suppliers'  
30 and providers' existing supply contracts that are effective prior to  
31 the date of a board decision approving a regulation adopted  
32 pursuant to this paragraph.

33 e. Notwithstanding any provisions of the "Administrative  
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
35 contrary, the board shall initiate a proceeding and shall adopt, after  
36 notice, provision of the opportunity for comment, and public  
37 hearing:

38 (1) net metering standards for electric power suppliers and basic  
39 generation service providers. The standards shall require electric  
40 power suppliers and basic generation service providers to offer net  
41 metering at non-discriminatory rates to industrial, large  
42 commercial, residential and small commercial customers, as those  
43 customers are classified or defined by the board, that generate  
44 electricity, on the customer's side of the meter, using a Class I  
45 renewable energy source, for the net amount of electricity supplied  
46 by the electric power supplier or basic generation service provider  
47 over an annualized period. Systems of any sized capacity, as

1 measured in watts, are eligible for net metering. If the amount of  
2 electricity generated by the customer-generator, plus any kilowatt  
3 hour credits held over from the previous billing periods, exceeds the  
4 electricity supplied by the electric power supplier or basic  
5 generation service provider, then the electric power supplier or  
6 basic generation service provider, as the case may be, shall credit  
7 the customer-generator for the excess kilowatt hours until the end of  
8 the annualized period at which point the customer-generator will be  
9 compensated for any remaining credits or, if the customer-generator  
10 chooses, credit the customer-generator on a real-time basis, at the  
11 electric power supplier's or basic generation service provider's  
12 avoided cost of wholesale power or the PJM electric power pool's  
13 real-time locational marginal pricing rate, adjusted for losses, for  
14 the respective zone in the PJM electric power pool. Alternatively,  
15 the customer-generator may execute a bilateral agreement with an  
16 electric power supplier or basic generation service provider for the  
17 sale and purchase of the customer-generator's excess generation.  
18 The customer-generator may be credited on a real-time basis, so  
19 long as the customer-generator follows applicable rules prescribed  
20 by the PJM electric power pool for its capacity requirements for the  
21 net amount of electricity supplied by the electric power supplier or  
22 basic generation service provider. The board may authorize an  
23 electric power supplier or basic generation service provider to cease  
24 offering net metering whenever the total rated generating capacity  
25 owned and operated by net metering customer-generators Statewide  
26 equals 2.5 percent of the State's peak electricity demand;

27 (2) safety and power quality interconnection standards for Class  
28 I renewable energy source systems used by a customer-generator  
29 that shall be eligible for net metering.

30 Such standards or rules shall take into consideration the goals of  
31 the New Jersey Energy Master Plan, applicable industry standards,  
32 and the standards of other states and the Institute of Electrical and  
33 Electronic Engineers. The board shall allow electric public utilities  
34 to recover the costs of any new net meters, upgraded net meters,  
35 system reinforcements or upgrades, and interconnection costs  
36 through either their regulated rates or from the net metering  
37 customer-generator; and

38 (3) credit or other incentive rules for generators using Class I  
39 renewable energy generation systems that connect to New Jersey's  
40 electric public utilities' distribution system but who do not net  
41 meter.

42 Such rules shall require the board or its designee to issue a credit  
43 or other incentive to those generators that do not use a net meter but  
44 otherwise generate electricity derived from a Class I renewable  
45 energy source and to issue an enhanced credit or other incentive,  
46 including, but not limited to, a solar renewable energy credit, to

1 those generators that generate electricity derived from solar  
2 technologies.

3 Such standards or rules shall be effective as regulations  
4 immediately upon filing with the Office of Administrative Law and  
5 shall be effective for a period not to exceed 18 months, and may,  
6 thereafter, be amended, adopted or readopted by the board in  
7 accordance with the provisions of the "Administrative Procedure  
8 Act."

9 f. The board may assess, by written order and after notice and  
10 opportunity for comment, a separate fee to cover the cost of  
11 implementing and overseeing an emission disclosure system or  
12 emission portfolio standard, which fee shall be assessed based on an  
13 electric power supplier's or basic generation service provider's share  
14 of the retail electricity supply market. The board shall not impose a  
15 fee for the cost of implementing and overseeing a greenhouse gas  
16 emissions portfolio standard adopted pursuant to paragraph (2) of  
17 subsection c. of this section, the electric energy efficiency portfolio  
18 standard adopted pursuant to subsection g. of this section, or the gas  
19 energy efficiency portfolio standard adopted pursuant to subsection  
20 h. of this section.

21 g. The board may adopt, pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
23 energy efficiency portfolio standard that may require each electric  
24 public utility to implement energy efficiency measures that reduce  
25 electricity usage in the State by 2020 to a level that is 20 percent  
26 below the usage projected by the board in the absence of such a  
27 standard. Nothing in this section shall be construed to prevent an  
28 electric public utility from meeting the requirements of this section  
29 by contracting with another entity for the performance of the  
30 requirements.

31 h. The board may adopt, pursuant to the "Administrative  
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy  
33 efficiency portfolio standard that may require each gas public utility  
34 to implement energy efficiency measures that reduce natural gas  
35 usage for heating in the State by 2020 to a level that is 20 percent  
36 below the usage projected by the board in the absence of such a  
37 standard. Nothing in this section shall be construed to prevent a gas  
38 public utility from meeting the requirements of this section by  
39 contracting with another entity for the performance of the  
40 requirements.

41 i. After the board establishes a schedule of solar kilowatt-hour  
42 sale or purchase requirements pursuant to paragraph (3) of  
43 subsection d. of this section, the board may initiate subsequent  
44 proceedings and adopt, after appropriate notice and opportunity for  
45 public comment and public hearing, increased minimum solar  
46 kilowatt-hour sale or purchase requirements, provided that the  
47 board shall not reduce previously established minimum solar

1 kilowatt-hour sale or purchase requirements, or otherwise impose  
2 constraints that reduce the requirements by any means.

3 j. The board shall determine an appropriate level of solar  
4 alternative compliance payment, and establish a 15-year solar  
5 alternative compliance payment schedule, that permits each supplier  
6 or provider to submit an SACP to comply with the solar electric  
7 generation requirements of paragraph (3) of subsection d. of this  
8 section. The board may initiate subsequent proceedings and adopt,  
9 after appropriate notice and opportunity for public comment and  
10 public hearing, an increase in solar alternative compliance  
11 payments, provided that the board shall not reduce previously  
12 established levels of solar alternative compliance payments, nor  
13 shall the board provide relief from the obligation of payment of the  
14 SACP by the electric power suppliers or basic generation service  
15 providers in any form. Any SACP payments collected shall be  
16 refunded directly to the ratepayers by the electric public utilities.

17 k. The board may allow electric public utilities to offer long-  
18 term contracts and other means of financing, including but not  
19 limited to loans, for the purchase of SRECs and the resale of SRECs  
20 to suppliers or providers or others, provided that after such  
21 contracts have been approved by the board, the board's approvals  
22 shall not be modified by subsequent board orders.

23 l. The board shall implement its responsibilities under the  
24 provisions of this section in such a manner as to:

25 (1) place greater reliance on competitive markets, with the  
26 explicit goal of encouraging and ensuring the emergence of new  
27 entrants that can foster innovations and price competition;

28 (2) maintain adequate regulatory authority over non-competitive  
29 public utility services;

30 (3) consider alternative forms of regulation in order to address  
31 changes in the technology and structure of electric public utilities;

32 (4) promote energy efficiency and Class I renewable energy  
33 market development, taking into consideration environmental  
34 benefits and market barriers;

35 (5) make energy services more affordable for low and moderate  
36 income customers;

37 (6) attempt to transform the renewable energy market into one  
38 that can move forward without subsidies from the State or public  
39 utilities;

40 (7) achieve the goals put forth under the renewable energy  
41 portfolio standards;

42 (8) promote the lowest cost to ratepayers; and

43 (9) allow all market segments to participate.

44 m. The board shall ensure the availability of financial incentives  
45 under its jurisdiction, including, but not limited to, long-term  
46 contracts, loans, SRECs, or other financial support, to ensure  
47 market diversity, competition, and appropriate coverage across all

1 ratepayer segments, including, but not limited to, residential,  
2 commercial, industrial, non-profit, farms, schools, and public entity  
3 customers.

4 n. For projects which are owned, or directly invested in, by a  
5 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
6 98.1), the board shall determine the number of SRECs with which  
7 such projects shall be credited; and in determining such number the  
8 board shall ensure that the market for SRECs does not detrimentally  
9 affect the development of non-utility solar projects and shall  
10 consider how its determination may impact the ratepayers.

11 o. The board, in consultation with the Department of  
12 Environmental Protection, electric public utilities, the Division of  
13 Rate Counsel in the Department of the Public Advocate, affected  
14 members of the solar energy industry, and relevant stakeholders,  
15 shall periodically consider increasing the renewable energy  
16 portfolio standards beyond the minimum amounts set forth in  
17 subsection d. of this section, taking into account the cost impacts  
18 and public benefits of such increases including, but not limited to:

19 (1) reductions in air pollution, water pollution, land disturbance,  
20 and greenhouse gas emissions;

21 (2) reductions in peak demand for electricity and natural gas,  
22 and the overall impact on the costs to customers of electricity and  
23 natural gas;

24 (3) increases in renewable energy development, manufacturing,  
25 investment, and job creation opportunities in this State; and

26 (4) reductions in State and national dependence on the use of  
27 fossil fuels.

28 p. Class I RECs shall be eligible for use in renewable energy  
29 portfolio standards compliance in the energy year in which they are  
30 generated, and for the following two energy years. SRECs shall be  
31 eligible for use in renewable energy portfolio standards compliance  
32 in the energy year in which they are generated, and for the  
33 following two energy years.

34 q. Notwithstanding any provisions of the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
36 contrary, the board shall initiate a proceeding to evaluate energy  
37 efficiency portfolio standards, and after notice, provision of the  
38 opportunity for comment, and public hearing, may adopt such  
39 energy portfolio standards that require each electric power supplier  
40 and each basic generation service provider to purchase a specified  
41 number of EE certificates from eligible energy efficiency and  
42 energy conservation programs. The board shall permit an electric  
43 power supplier or basic generation service provider to satisfy the  
44 requirements of this subsection by participating in an energy trading  
45 program approved by the board in consultation with the Department  
46 of Environmental Protection.

1       The board shall exempt suppliers and providers' existing supply  
2 contracts that are effective prior to the date of a board decision  
3 approving a rule adoption pursuant to this subsection. Any  
4 purchases that would have otherwise been required from exempt  
5 suppliers or providers in the absence of such exemption may be  
6 distributed over suppliers and providers not subject to the existing  
7 contract exemption until such time as existing supply contracts  
8 expire and all suppliers and providers are subject to the new  
9 requirement.<sup>1</sup>  
10 (cf: P.L.2009, c.289, s.2)]<sup>2</sup>

11  
12       <sup>2</sup>2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read  
13 as follows:

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

19       (1) Its fuel mix, including categories for oil, gas, nuclear, coal,  
20 solar, hydroelectric, wind and biomass, or a regional average  
21 determined by the board;

22       (2) Its emissions, in pounds per megawatt hour, of sulfur  
23 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
24 that the board may determine to pose an environmental or health  
25 hazard, or an emissions default to be determined by the board; and

26       (3) Any discrete emission reduction retired pursuant to rules and  
27 regulations adopted pursuant to P.L.1995, c.188.

28       b. Notwithstanding any provisions of the "Administrative  
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
30 contrary, the board shall initiate a proceeding and shall adopt, in  
31 consultation with the Department of Environmental Protection, after  
32 notice and opportunity for public comment and public hearing,  
33 interim standards to implement this disclosure requirement,  
34 including, but not limited to:

35       (1) A methodology for disclosure of emissions based on output  
36 pounds per megawatt hour;

37       (2) Benchmarks for all suppliers and basic generation service  
38 providers to use in disclosing emissions that will enable consumers  
39 to perform a meaningful comparison with a supplier's or basic  
40 generation service provider's emission levels; and

41       (3) A uniform emissions disclosure format that is graphic in  
42 nature and easily understandable by consumers. The board shall  
43 periodically review the disclosure requirements to determine if  
44 revisions to the environmental disclosure system as implemented  
45 are necessary.

46       Such standards shall be effective as regulations immediately  
47 upon filing with the Office of Administrative Law and shall be

1 effective for a period not to exceed 18 months, and may, thereafter,  
2 be amended, adopted or readopted by the board in accordance with  
3 the provisions of the "Administrative Procedure Act."

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

9 (a) The standard is necessary as part of a plan to enable the  
10 State to meet federal Clean Air Act or State ambient air quality  
11 standards; and

12 (b) Actions at the regional or federal level cannot reasonably be  
13 expected to achieve the compliance with the federal standards.

14 (2) By July 1, 2009, the board shall adopt, pursuant to the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
16 seq.), a greenhouse gas emissions portfolio standard to mitigate  
17 leakage or another regulatory mechanism to mitigate leakage  
18 applicable to all electric power suppliers and basic generation  
19 service providers that provide electricity to customers within the  
20 State. The greenhouse gas emissions portfolio standard or any other  
21 regulatory mechanism to mitigate leakage shall:

22 (a) Allow a transition period, either before or after the effective  
23 date of the regulation to mitigate leakage, for a basic generation  
24 service provider or electric power supplier to either meet the  
25 emissions portfolio standard or other regulatory mechanism to  
26 mitigate leakage, or to transfer any customer to a basic generation  
27 service provider or electric power supplier that meets the emissions  
28 portfolio standard or other regulatory mechanism to mitigate  
29 leakage. If the transition period allowed pursuant to this  
30 subparagraph occurs after the implementation of an emissions  
31 portfolio standard or other regulatory mechanism to mitigate  
32 leakage, the transition period shall be no longer than three years;  
33 and

34 (b) Exempt the provision of basic generation service pursuant to  
35 a basic generation service purchase and sale agreement effective  
36 prior to the date of the regulation.

37 Unless the Attorney General or the Attorney General's designee  
38 determines that a greenhouse gas emissions portfolio standard  
39 would unconstitutionally burden interstate commerce or would be  
40 preempted by federal law, the adoption by the board of an electric  
41 energy efficiency portfolio standard pursuant to subsection g. of this  
42 section, a gas energy efficiency portfolio standard pursuant to  
43 subsection h. of this section, or any other enhanced energy  
44 efficiency policies to mitigate leakage shall not be considered  
45 sufficient to fulfill the requirement of this subsection for the  
46 adoption of a greenhouse gas emissions portfolio standard or any  
47 other regulatory mechanism to mitigate leakage.

1 d. Notwithstanding any provisions of the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
3 contrary, the board shall initiate a proceeding and shall adopt, after  
4 notice, provision of the opportunity for comment, and public  
5 hearing, renewable energy portfolio standards that shall require:

6 (1) that two and one-half percent of the kilowatt hours sold in  
7 this State by each electric power supplier and each basic generation  
8 service provider be from Class I or Class II renewable energy  
9 sources;

10 (2) beginning on January 1, 2001, that one-half of one percent  
11 of the kilowatt hours sold in this State by each electric power  
12 supplier and each basic generation service provider be from Class I  
13 renewable energy sources. The board shall increase the required  
14 percentage for Class I renewable energy sources so that by January  
15 1, 2006, one percent of the kilowatt hours sold in this State by each  
16 electric power supplier and each basic generation service provider  
17 shall be from Class I renewable energy sources and shall  
18 additionally increase the required percentage for Class I renewable  
19 energy sources by one-half of one percent each year until January 1,  
20 2012, when four percent of the kilowatt hours sold in this State by  
21 each electric power supplier and each basic generation service  
22 provider shall be from Class I renewable energy sources[.

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

27 (3) that the board establish a multi-year schedule, applicable to  
28 each electric power supplier or basic generation service provider in  
29 this State, beginning with the one-year period commencing on June  
30 1, 2010, and continuing for each subsequent one-year period up to  
31 and including, the one-year period commencing on June 1, 2025,  
32 that requires suppliers or providers to purchase at least the  
33 following number of kilowatt-hours from solar electric power  
34 generators connected to the distribution system in this State:

35 EY 2011	306 Gigawatthours (Gwhrs)
36 EY 2012	442 Gwhrs
37 EY 2013	596 Gwhrs
38 EY 2014	772 Gwhrs
39 EY 2015	965 Gwhrs
40 EY 2016	1,150 Gwhrs
41 EY 2017	1,357 Gwhrs
42 EY 2018	1,591 Gwhrs
43 EY 2019	1,858 Gwhrs
44 EY 2020	2,164 Gwhrs
45 EY 2021	2,518 Gwhrs
46 EY 2022	2,928 Gwhrs
47 EY 2023	3,433 Gwhrs



1 EY 2024 3,989 Gwhrs  
2 EY 2025 4,610 Gwhrs  
3 EY 2026 5,316 Gwhrs  
4 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs  
5 per energy year to reflect an increasing number of kilowatt-hours to  
6 be purchased by suppliers or providers from solar electric power  
7 generators connected to the distribution system in this State, and to  
8 establish a framework within which suppliers and providers shall  
9 purchase at least 2,518 Gwhrs in the energy year 2021 and 5,316  
10 Gwhrs in the energy year 2026 from solar electric power generators  
11 connected to the distribution system in this State, provided,  
12 however, that: (a) when the board establishes the multi-year  
13 schedule and framework for annual Statewide Gwhr requirements  
14 for Energy Years 2011 through 2026 required in paragraph (3) of  
15 subsection d. of this section, and any requirements for Energy Years  
16 thereafter, the board ensures that each such annual Statewide Gwhr  
17 requirement annually requires that a percentage of the kilowatt-  
18 hours sold in this State by each provider and supplier be purchased  
19 from solar electric power generators connected to the distribution  
20 system in this State, based on the percentage relationship that each  
21 annual Statewide Gwhr requirement has to the board's weather-  
22 normalized projection of the number of kilowatt hours to be sold in  
23 this State by all providers and suppliers for each Energy Year,  
24 subject to adjustment pursuant to subparagraph (d) of paragraph (3)  
25 of this subsection;  
26 (b) the number of solar kilowatt-hours required to be purchased by  
27 each supplier or provider, when expressed as a percentage of the  
28 total number of solar kilowatt-hours purchased in this State, shall be  
29 equivalent to each supplier's or provider's proportionate share of the  
30 total number of kilowatt-hours projected by the board to be sold in  
31 this State by all suppliers and providers;  
32 (c) the board shall determine an appropriate period of no less than  
33 120 days following the end of an Energy Year prior to which a  
34 provider or supplier must demonstrate compliance with the annual  
35 renewable portfolio standard;  
36 (d) within 45 days following the period set forth in subparagraph (c)  
37 of paragraph (3) of this subsection, to the extent that the board  
38 determines that the solar Gwhrs purchased in an Energy Year by all  
39 providers and suppliers pursuant to the percentage established by  
40 the board were less than the annual Statewide Gwhr requirement  
41 specified in paragraph (3) of this subsection, the board shall add the  
42 Gwhrs that constitute the shortfall to the annual Gwhr requirement  
43 for the Energy Year that is three years after the Energy Year in  
44 which the shortfall occurs, and use the increased Gwhr requirement  
45 to recalculate the percentage of kilowatt-hours that each provider  
46 and supplier sells that are required to be purchased from solar

1 electric power generators connected to the distribution system in  
2 this State for that future Energy Year; and  
3 (e) providers and suppliers shall comply with the provisions of  
4 paragraph (3) of this subsection by complying with the board's  
5 percentage requirements established pursuant to subparagraphs (a)  
6 through (d) of paragraph (3) of this subsection.

7 The solar renewable portfolio standards requirements in  
8 paragraph (3) of this subsection shall automatically increase by 20%  
9 for the remainder of the schedule in the event that the following two  
10 conditions are met: (a) the number of SRECs generated meets or  
11 exceeds the requirement for three consecutive reporting years,  
12 starting with energy year 2013; and (b) the average SREC price for  
13 all SRECs purchased by entities with renewable energy portfolio  
14 standards obligations has decreased in the same three consecutive  
15 reporting years. The board shall exempt providers' existing supply  
16 contracts that are: (a) effective prior to the date of P.L.2009, c.289;  
17 or (b) effective prior to any future increase in the solar renewable  
18 portfolio standard beyond the multi-year schedule established in  
19 paragraph (3) of this subsection. This exemption shall apply to the  
20 number of SRECs that exceeds the number mandated by the solar  
21 renewable portfolio standards requirements that were in effect on  
22 the date that the providers executed their existing supply contracts.  
23 This limited exemption for providers' existing supply contracts shall  
24 not be construed to lower the Statewide solar purchase requirements  
25 set forth in paragraph (3) of this subsection[. Such] , provided that  
26 the board shall provide for recovery of such incremental new  
27 requirements [shall be distributed over the electric power suppliers  
28 and providers not subject to the existing supply contract exemption  
29 until such time as existing supply contracts expire and all suppliers  
30 are subject to the new requirement] in the same manner and future  
31 time period specified for Energy Year shortfalls set forth in  
32 subparagraph (d) of paragraph (3) of this subsection.

33 An electric power supplier or basic generation service provider  
34 may satisfy the requirements of this subsection by participating in a  
35 renewable energy trading program approved by the board in  
36 consultation with the Department of Environmental Protection, or  
37 compliance with the requirements of this subsection may be  
38 demonstrated to the board by suppliers or providers through the  
39 purchase of SRECs.

40 The renewable energy portfolio standards adopted by the board  
41 pursuant to paragraphs (1) and (2) of this subsection shall be  
42 effective as regulations immediately upon filing with the Office of  
43 Administrative Law and shall be effective for a period not to exceed  
44 18 months, and may, thereafter, be amended, adopted or readopted  
45 by the board in accordance with the provisions of the  
46 "Administrative Procedure Act."

1 The renewable energy portfolio standards adopted by the board  
2 pursuant to paragraph (3) of this subsection shall be effective as  
3 regulations immediately upon filing with the Office of  
4 Administrative Law and shall be effective for a period not to exceed  
5 30 months after such filing, and shall, thereafter, be amended,  
6 adopted or readopted by the board in accordance with the  
7 "Administrative Procedure Act"; and

8 (4) within 180 days after the date of enactment of P.L.2010,  
9 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind  
10 renewable energy certificate program to require that a percentage of  
11 the kilowatt hours sold in this State by each electric power supplier  
12 and each basic generation service provider be from offshore wind  
13 energy in order to support at least 1,100 megawatts of generation  
14 from qualified offshore wind projects.

15 The percentage established by the board pursuant to this  
16 paragraph shall serve as an offset to the renewable energy portfolio  
17 standard established pursuant to paragraphs (1) and (2) of this  
18 subsection and shall reduce the corresponding Class I renewable  
19 energy requirement.

20 The percentage established by the board pursuant to this  
21 paragraph shall reflect the projected OREC production of each  
22 qualified offshore wind project, approved by the board pursuant to  
23 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the  
24 commercial operation start date of the qualified offshore wind  
25 project which production projection and OREC purchase  
26 requirement, once approved by the board, shall not be subject to  
27 reduction.

28 An electric power supplier or basic generation service provider  
29 shall comply with the OREC program established pursuant to this  
30 paragraph through the purchase of offshore wind renewable energy  
31 certificates at a price and for the time period required by the board.  
32 In the event there are insufficient offshore wind renewable energy  
33 certificates available, the electric power supplier or basic generation  
34 service provider shall pay an offshore wind alternative compliance  
35 payment established by the board. Any offshore wind alternative  
36 compliance payments collected shall be refunded directly to the  
37 ratepayers by the electric public utilities.

38 The rules established by the board pursuant to this paragraph  
39 shall be effective as regulations immediately upon filing with the  
40 Office of Administrative Law and shall be effective for a period not  
41 to exceed 18 months, and may, thereafter, be amended, adopted or  
42 readopted by the board in accordance with the provisions of the  
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.).

45 No later than December 31, 2010, the board shall review the  
46 amount of Class I alternative energy required to be purchased by  
47 providers and suppliers in each energy year beginning in 2014 and

1 determine whether the current standards are sufficient for  
2 supporting the development of additional Class I alternative energy  
3 resources. If the board determines that increasing the Class I  
4 alternative energy standard in 2014 and beyond is necessary to  
5 support the development of additional Class I alternative energy  
6 resources, then after opportunity for public comment and public  
7 hearing, the board shall adopt regulations that (a) increase the  
8 amount of Class I alternative energy required to be purchased by  
9 suppliers and providers in 2014 and beyond; (b) consider the cost  
10 impact of such increase on ratepayers; and (c) exempt suppliers'  
11 and providers' existing supply contracts that are effective prior to  
12 the date of a board decision approving a regulation adopted  
13 pursuant to this paragraph.

14 e. Notwithstanding any provisions of the "Administrative  
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
16 contrary, the board shall initiate a proceeding and shall adopt, after  
17 notice, provision of the opportunity for comment, and public  
18 hearing:

19 (1) net metering standards for electric power suppliers and basic  
20 generation service providers. The standards shall require electric  
21 power suppliers and basic generation service providers to offer net  
22 metering at non-discriminatory rates to industrial, large  
23 commercial, residential and small commercial customers, as those  
24 customers are classified or defined by the board, that generate  
25 electricity, on the customer's side of the meter, using a Class I  
26 renewable energy source, for the net amount of electricity supplied  
27 by the electric power supplier or basic generation service provider  
28 over an annualized period. Systems of any sized capacity, as  
29 measured in watts, are eligible for net metering. If the amount of  
30 electricity generated by the customer-generator, plus any kilowatt  
31 hour credits held over from the previous billing periods, exceeds the  
32 electricity supplied by the electric power supplier or basic  
33 generation service provider, then the electric power supplier or  
34 basic generation service provider, as the case may be, shall credit  
35 the customer-generator for the excess kilowatt hours until the end of  
36 the annualized period at which point the customer-generator will be  
37 compensated for any remaining credits or, if the customer-generator  
38 chooses, credit the customer-generator on a real-time basis, at the  
39 electric power supplier's or basic generation service provider's  
40 avoided cost of wholesale power or the PJM electric power pool's  
41 real-time locational marginal pricing rate, adjusted for losses, for  
42 the respective zone in the PJM electric power pool. Alternatively,  
43 the customer-generator may execute a bilateral agreement with an  
44 electric power supplier or basic generation service provider for the  
45 sale and purchase of the customer-generator's excess generation.  
46 The customer-generator may be credited on a real-time basis, so  
47 long as the customer-generator follows applicable rules prescribed

1 by the PJM electric power pool for its capacity requirements for the  
2 net amount of electricity supplied by the electric power supplier or  
3 basic generation service provider. The board may authorize an  
4 electric power supplier or basic generation service provider to cease  
5 offering net metering whenever the total rated generating capacity  
6 owned and operated by net metering customer-generators Statewide  
7 equals 2.5 percent of the State's peak electricity demand;

8 (2) safety and power quality interconnection standards for Class  
9 I renewable energy source systems used by a customer-generator  
10 that shall be eligible for net metering.

11 Such standards or rules shall take into consideration the goals of  
12 the New Jersey Energy Master Plan, applicable industry standards,  
13 and the standards of other states and the Institute of Electrical and  
14 Electronic Engineers. The board shall allow electric public utilities  
15 to recover the costs of any new net meters, upgraded net meters,  
16 system reinforcements or upgrades, and interconnection costs  
17 through either their regulated rates or from the net metering  
18 customer-generator; and

19 (3) credit or other incentive rules for generators using Class I  
20 renewable energy generation systems that connect to New Jersey's  
21 electric public utilities' distribution system but who do not net  
22 meter.

23 Such rules shall require the board or its designee to issue a credit  
24 or other incentive to those generators that do not use a net meter but  
25 otherwise generate electricity derived from a Class I renewable  
26 energy source and to issue an enhanced credit or other incentive,  
27 including, but not limited to, a solar renewable energy credit, to  
28 those generators that generate electricity derived from solar  
29 technologies.

30 Such standards or rules shall be effective as regulations  
31 immediately upon filing with the Office of Administrative Law and  
32 shall be effective for a period not to exceed 18 months, and may,  
33 thereafter, be amended, adopted or readopted by the board in  
34 accordance with the provisions of the "Administrative Procedure  
35 Act."

36 f. The board may assess, by written order and after notice and  
37 opportunity for comment, a separate fee to cover the cost of  
38 implementing and overseeing an emission disclosure system or  
39 emission portfolio standard, which fee shall be assessed based on an  
40 electric power supplier's or basic generation service provider's share  
41 of the retail electricity supply market. The board shall not impose a  
42 fee for the cost of implementing and overseeing a greenhouse gas  
43 emissions portfolio standard adopted pursuant to paragraph (2) of  
44 subsection c. of this section, the electric energy efficiency portfolio  
45 standard adopted pursuant to subsection g. of this section, or the gas  
46 energy efficiency portfolio standard adopted pursuant to subsection  
47 h. of this section.

1 g. The board may adopt, pursuant to the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
3 energy efficiency portfolio standard that may require each electric  
4 public utility to implement energy efficiency measures that reduce  
5 electricity usage in the State by 2020 to a level that is 20 percent  
6 below the usage projected by the board in the absence of such a  
7 standard. Nothing in this section shall be construed to prevent an  
8 electric public utility from meeting the requirements of this section  
9 by contracting with another entity for the performance of the  
10 requirements.

11 h. The board may adopt, pursuant to the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy  
13 efficiency portfolio standard that may require each gas public utility  
14 to implement energy efficiency measures that reduce natural gas  
15 usage for heating in the State by 2020 to a level that is 20 percent  
16 below the usage projected by the board in the absence of such a  
17 standard. Nothing in this section shall be construed to prevent a gas  
18 public utility from meeting the requirements of this section by  
19 contracting with another entity for the performance of the  
20 requirements.

21 i. After the board establishes a schedule of solar kilowatt-hour  
22 sale or purchase requirements pursuant to paragraph (3) of  
23 subsection d. of this section, the board may initiate subsequent  
24 proceedings and adopt, after appropriate notice and opportunity for  
25 public comment and public hearing, increased minimum solar  
26 kilowatt-hour sale or purchase requirements, provided that the  
27 board shall not reduce previously established minimum solar  
28 kilowatt-hour sale or purchase requirements, or otherwise impose  
29 constraints that reduce the requirements by any means.

30 j. The board shall determine an appropriate level of solar  
31 alternative compliance payment, and establish a 15-year solar  
32 alternative compliance payment schedule, that permits each supplier  
33 or provider to submit an SACP to comply with the solar electric  
34 generation requirements of paragraph (3) of subsection d. of this  
35 section. The board may initiate subsequent proceedings and adopt,  
36 after appropriate notice and opportunity for public comment and  
37 public hearing, an increase in solar alternative compliance  
38 payments, provided that the board shall not reduce previously  
39 established levels of solar alternative compliance payments, nor  
40 shall the board provide relief from the obligation of payment of the  
41 SACP by the electric power suppliers or basic generation service  
42 providers in any form. Any SACP payments collected shall be  
43 refunded directly to the ratepayers by the electric public utilities.

44 k. The board may allow electric public utilities to offer long-  
45 term contracts and other means of financing, including but not  
46 limited to loans, for the purchase of SRECs and the resale of SRECs  
47 to suppliers or providers or others, provided that after such

1 contracts have been approved by the board, the board's approvals  
2 shall not be modified by subsequent board orders.

3 1. The board shall implement its responsibilities under the  
4 provisions of this section in such a manner as to:

5 (1) place greater reliance on competitive markets, with the  
6 explicit goal of encouraging and ensuring the emergence of new  
7 entrants that can foster innovations and price competition;

8 (2) maintain adequate regulatory authority over non-competitive  
9 public utility services;

10 (3) consider alternative forms of regulation in order to address  
11 changes in the technology and structure of electric public utilities;

12 (4) promote energy efficiency and Class I renewable energy  
13 market development, taking into consideration environmental  
14 benefits and market barriers;

15 (5) make energy services more affordable for low and moderate  
16 income customers;

17 (6) attempt to transform the renewable energy market into one  
18 that can move forward without subsidies from the State or public  
19 utilities;

20 (7) achieve the goals put forth under the renewable energy  
21 portfolio standards;

22 (8) promote the lowest cost to ratepayers; and

23 (9) allow all market segments to participate.

24 m. The board shall ensure the availability of financial incentives  
25 under its jurisdiction, including, but not limited to, long-term  
26 contracts, loans, SRECs, or other financial support, to ensure  
27 market diversity, competition, and appropriate coverage across all  
28 ratepayer segments, including, but not limited to, residential,  
29 commercial, industrial, non-profit, farms, schools, and public entity  
30 customers.

31 n. For projects which are owned, or directly invested in, by a  
32 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
33 98.1), the board shall determine the number of SRECs with which  
34 such projects shall be credited; and in determining such number the  
35 board shall ensure that the market for SRECs does not detrimentally  
36 affect the development of non-utility solar projects and shall  
37 consider how its determination may impact the ratepayers.

38 o. The board, in consultation with the Department of  
39 Environmental Protection, electric public utilities, the Division of  
40 Rate Counsel in, but not of, the Department of the Treasury,  
41 affected members of the solar energy industry, and relevant  
42 stakeholders, shall periodically consider increasing the renewable  
43 energy portfolio standards beyond the minimum amounts set forth  
44 in subsection d. of this section, taking into account the cost impacts  
45 and public benefits of such increases including, but not limited to:

46 (1) reductions in air pollution, water pollution, land disturbance,  
47 and greenhouse gas emissions;

1 (2) reductions in peak demand for electricity and natural gas,  
2 and the overall impact on the costs to customers of electricity and  
3 natural gas;

4 (3) increases in renewable energy development, manufacturing,  
5 investment, and job creation opportunities in this State; and

6 (4) reductions in State and national dependence on the use of  
7 fossil fuels.

8 p. Class I RECs shall be eligible for use in renewable energy  
9 portfolio standards compliance in the energy year in which they are  
10 generated, and for the following two energy years. SRECs and  
11 ORECs shall be eligible for use in renewable energy portfolio  
12 standards compliance in the energy year in which they are  
13 generated, and for the following two energy years.

14 q. Notwithstanding any provisions of the "Administrative  
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
16 contrary, the board shall initiate a proceeding to evaluate energy  
17 efficiency portfolio standards, and after notice, provision of the  
18 opportunity for comment, and public hearing, may adopt such  
19 competitively neutral energy portfolio standards that require each  
20 electric power supplier and each basic generation service provider  
21 to purchase a specified number of EE certificates from eligible  
22 energy efficiency and energy conservation programs. The board  
23 shall permit an electric power supplier or basic generation service  
24 provider to satisfy the requirements of this subsection by  
25 participating in an energy trading program approved by the board in  
26 consultation with the Department of Environmental Protection.

27 The board shall exempt suppliers and providers' existing supply  
28 contracts that are effective prior to the date of a board decision  
29 approving a rule adoption pursuant to this subsection. Any  
30 purchases that would have otherwise been required from exempt  
31 suppliers or providers in the absence of such exemption may be  
32 distributed over suppliers and providers not subject to the existing  
33 contract exemption until such time as existing supply contracts  
34 expire and all suppliers and providers are subject to the new  
35 requirement.<sup>2</sup>

36 (cf: P.L.2010, c.57, s.2)

37

38 <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect immediately.