

[Second Reprint]

ASSEMBLY, No. 3142

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JULY 2, 2010

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman GILBERT "WHIP" L. WILSON

District 5 (Camden and Gloucester)

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

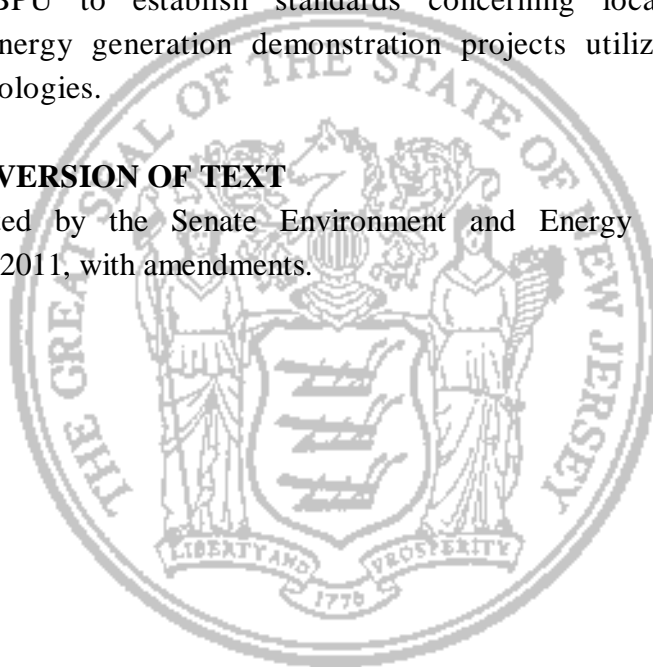
Senators B.Smith and Bateman

SYNOPSIS

Directs BPU to establish standards concerning local government renewable energy generation demonstration projects utilizing renewable energy technologies.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on December 1, 2011, with amendments.



(Sponsorship Updated As Of: 1/10/2012)

1 AN ACT ¹[to undertake a] concerning¹ demonstration ¹[project
2 concerning] projects utilizing¹ renewable energy, ¹[and]¹
3 amending P.L.1999, c.23.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ¹[1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
9 as follows:

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

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

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

32 "Basic generation service provider" or "provider" means a
33 provider of basic generation service;

34 "Basic generation service transition costs" means the amount by
35 which the payments by an electric public utility for the procurement
36 of power for basic generation service and related ancillary and
37 administrative costs exceeds the net revenues from the basic
38 generation service charge established by the board pursuant to
39 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
40 together with interest on the balance at the board-approved rate, that
41 is reflected in a deferred balance account approved by the board in
42 an order addressing the electric public utility's unbundled rates,
43 stranded costs, and restructuring filings pursuant to P.L.1999, c.23
44 (C.48:3-49 et al.). Basic generation service transition costs shall

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:

¹Assembly ATU committee amendments adopted September 13, 2010.

²Senate SEN committee amendments adopted December 1, 2011.

1 include, but are not limited to, costs of purchases from the spot
2 market, bilateral contracts, contracts with non-utility generators,
3 parting contracts with the purchaser of the electric public utility's
4 divested generation assets, short-term advance purchases, and
5 financial instruments such as hedging, forward contracts, and
6 options. Basic generation service transition costs shall also include
7 the payments by an electric public utility pursuant to a competitive
8 procurement process for basic generation service supply during the
9 transition period, and costs of any such process used to procure the
10 basic generation service supply;

11 "Board" means the New Jersey Board of Public Utilities or any
12 successor agency;

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

36 "Bondable stranded costs rate order" means one or more
37 irrevocable written orders issued by the board pursuant to P.L.1999,
38 c.23 (C.48:3-49 et al.) which determines the amount of bondable
39 stranded costs and the initial amount of transition bond charges
40 authorized to be imposed to recover such bondable stranded costs,
41 including the costs to be financed from the proceeds of the
42 transition bonds, as well as on-going costs associated with servicing
43 and credit enhancing the transition bonds, and provides the electric
44 public utility specific authority to issue or cause to be issued,
45 directly or indirectly, transition bonds through a financing entity
46 and related matters as provided in P.L.1999, c.23, which order shall
47 become effective immediately upon the written consent of the

1 related electric public utility to such order as provided in P.L.1999,
2 c.23;

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

14 "British thermal unit" or "Btu" means the amount of heat
15 required to increase the temperature of one pound of water by one
16 degree Fahrenheit;

17 "Broker" means a duly licensed electric power supplier that
18 assumes the contractual and legal responsibility for the sale of
19 electric generation service, transmission or other services to end-use
20 retail customers, but does not take title to any of the power sold, or
21 a duly licensed gas supplier that assumes the contractual and legal
22 obligation to provide gas supply service to end-use retail customers,
23 but does not take title to the gas;

24 "Buydown" means an arrangement or arrangements involving the
25 buyer and seller in a given power purchase contract and, in some
26 cases third parties, for consideration to be given by the buyer in
27 order to effectuate a reduction in the pricing, or the restructuring of
28 other terms to reduce the overall cost of the power contract, for the
29 remaining succeeding period of the purchased power arrangement
30 or arrangements;

31 "Buyout" 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 termination of such power purchase contract;

35 "Central renewable energy generation system" or "CREG
36 system" means a separately metered, Class I renewable energy
37 generation system that has been established and installed at a site
38 that is owned or controlled by a municipality or county after the
39 effective date of P.L. , c. (pending before the Legislature as this
40 bill), that generates power for sale into the PJM grid, and that is
41 licensed by the board pursuant to subsection f. of section 38 of
42 P.L.1999, c.23 (C.48:3-87);

43 "Class I renewable energy" means electric energy produced from
44 solar technologies, photovoltaic technologies, wind energy, fuel
45 cells, geothermal technologies, wave or tidal action, and methane
46 gas from landfills or a biomass facility, provided that the biomass is
47 cultivated and harvested in a sustainable manner;

1 "Class II renewable energy" means electric energy produced at a
2 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 "Co-generation" means the sequential production of electricity
9 and steam or other forms of useful energy used for industrial or
10 commercial heating and cooling purposes;

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

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

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

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

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 "Electric generation service" means the provision of retail
47 electric energy and capacity which is generated off-site from the
48 location at which the consumption of such electric energy and

1 capacity is metered for retail billing purposes, including agreements
2 and arrangements related thereto;

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

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

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

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

33 "Electronic signature" means an electronic sound, symbol or
34 process, attached to, or logically associated with, a contract or other
35 record, and executed or adopted by a person with the intent to sign
36 the record;

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

43 "Energy consumer" means a business or residential consumer of
44 electric generation service or gas supply service located within the
45 territorial jurisdiction of a government aggregator;

46 "Energy efficiency portfolio standard" means a requirement to
47 procure a specified amount of energy efficiency or demand side

1 management resources as a means of managing and reducing energy
2 usage and demand by customers;

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

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

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

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

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

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

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

1 municipal or county government, the provision of electric
2 generation service or gas supply service on behalf of business or
3 residential customers within its territorial jurisdiction;

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

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

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

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

22 "Local government renewable energy generation entity" or
23 "LGREG entity" means a subdivision, office, or department of or a
24 limited liability corporation or other legal entity established by a
25 municipality or county, which entity is licensed by the board
26 pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87)
27 and manages the establishment, installation, and operation of a
28 CREG system;

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

36 "Marketer" means a duly licensed electric power supplier that
37 takes title to electric energy and capacity, transmission and other
38 services from electric power generators and other wholesale
39 suppliers and then assumes the contractual and legal obligation to
40 provide electric generation service, and may include transmission
41 and other services, to an end-use retail customer or customers, or a
42 duly licensed gas supplier that takes title to gas and then assumes
43 the contractual and legal obligation to provide gas supply service to
44 an end-use customer or customers;

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

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

1 "Off-site end use thermal energy services customer" means an
2 end use customer that purchases thermal energy services from an
3 on-site generation facility, combined heat and power facility, or co-
4 generation facility, and that is located on property that is separated
5 from the property on which the on-site generation facility,
6 combined heat and power facility, or co-generation facility is
7 located by more than one easement, public thoroughfare, or
8 transportation or utility-owned right-of-way;

9 "On-site generation facility" means a generation facility, and
10 equipment and services appurtenant to electric **[sales]** output by
11 such facility **[to]** for sale to or use by the end use customer located
12 on the property or on property contiguous to the property on which
13 the end user is located. An on-site generation facility shall not be
14 considered a public utility. The property of the end use customer
15 and the property on which the on-site generation facility is located
16 shall be considered contiguous if they are geographically located
17 next to each other, but may be otherwise separated by an easement,
18 public thoroughfare, transportation or utility-owned right-of-way, or
19 if the end use customer is purchasing thermal energy services
20 produced by the on-site generation facility, for use for heating or
21 cooling, or both, regardless of whether the customer is located on
22 property that is separated from the property on which the on-site
23 generation facility is located by more than one easement, public
24 thoroughfare, or transportation or utility-owned right-of-way;

25 "Person" means an individual, partnership, corporation,
26 association, trust, limited liability company, governmental entity or
27 other legal entity;

28 "Private aggregator" means a non-government aggregator that is
29 a duly-organized business or non-profit organization authorized to
30 do business in this State that enters into a contract with a duly
31 licensed electric power supplier for the purchase of electric energy
32 and capacity, or with a duly licensed gas supplier for the purchase
33 of gas supply service, on behalf of multiple end-use customers by
34 combining the loads of those customers;

35 "Public utility holding company" means: (1) any company that,
36 directly or indirectly, owns, controls, or holds with power to vote,
37 ten percent or more of the outstanding voting securities of an
38 electric public utility or a gas public utility or of a company which
39 is a public utility holding company by virtue of this definition,
40 unless the Securities and Exchange Commission, or its successor,
41 by order declares such company not to be a public utility holding
42 company under the Public Utility Holding Company Act of 1935,
43 15 U.S.C.s.79 et seq., or its successor; or (2) any person that the
44 Securities and Exchange Commission, or its successor, determines,
45 after notice and opportunity for hearing, directly or indirectly, to
46 exercise, either alone or pursuant to an arrangement or
47 understanding with one or more other persons, such a controlling
48 influence over the management or policies of an electric public

1 utility or a gas public utility or public utility holding company as to
2 make it necessary or appropriate in the public interest or for the
3 protection of investors or consumers that such person be subject to
4 the obligations, duties, and liabilities imposed in the Public Utility
5 Holding Company Act of 1935 or its successor;

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

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

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

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

32 "Restructuring related costs" means reasonably incurred costs
33 directly related to the restructuring of the electric power industry,
34 including the closure, sale, functional separation and divestiture of
35 generation and other competitive utility assets by a public utility, or
36 the provision of competitive services as such costs are determined
37 by the board, and which are not stranded costs as defined in
38 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
39 to, investments in management information systems, and which
40 shall include expenses related to employees affected by
41 restructuring which result in efficiencies and which result in
42 benefits to ratepayers, such as training or retraining at the level
43 equivalent to one year's training at a vocational or technical school
44 or county community college, the provision of severance pay of two
45 weeks of base pay for each year of full-time employment, and a
46 maximum of 24 months' continued health care coverage. Except as
47 to expenses related to employees affected by restructuring,
48 "restructuring related costs" shall not include going forward costs;

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

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

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

22 "Social program" means a program implemented with board
23 approval to provide assistance to a group of disadvantaged
24 customers, to provide protection to consumers, or to accomplish a
25 particular societal goal, and includes, but is not limited to, the
26 winter moratorium program, utility practices concerning "bad debt"
27 customers, low income assistance, deferred payment plans,
28 weatherization programs, and late payment and deposit policies, but
29 does not include any demand side management program or any
30 environmental requirements or controls;

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

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

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

44 "Stranded cost" means the amount by which the net cost of an
45 electric public utility's electric generating assets or electric power
46 purchase commitments, as determined by the board consistent with
47 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
48 market value of those assets or contractual commitments in a

1 competitive supply marketplace and the costs of buydowns or
2 buyouts of power purchase contracts;

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

10 "Thermal efficiency" means the useful electric energy output of a
11 facility, plus the useful thermal energy output of the facility,
12 expressed as a percentage of the total energy input to the facility;

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

18 "Transition bonds" means bonds, notes, certificates of
19 participation or beneficial interest or other evidences of
20 indebtedness or ownership issued pursuant to an indenture, contract
21 or other agreement of an electric public utility or a financing entity,
22 the proceeds of which are used, directly or indirectly, to recover,
23 finance or refinance bondable stranded costs and which are, directly
24 or indirectly, secured by or payable from bondable transition
25 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
26 principal, interest, and acquisition or redemption premium with
27 respect to transition bonds which are issued in the form of
28 certificates of participation or beneficial interest or other evidences
29 of ownership shall refer to the comparable payments on such
30 securities;

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

33 "Transmission and distribution system" means, with respect to an
34 electric public utility, any facility or equipment that is used for the
35 transmission, distribution or delivery of electricity to the customers
36 of the electric public utility including, but not limited to, the land,
37 structures, meters, lines, switches and all other appurtenances
38 thereof and thereto, owned or controlled by the electric public
39 utility within this State; and

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

43 (cf: P.L.2009, c.289, s.1)]¹

44

45 ¹[2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to
46 read as follows:

47 38. a. The board shall require an electric power supplier or
48 basic generation service provider to disclose on a customer's bill or

1 on customer contracts or marketing materials, a uniform, common
2 set of information about the environmental characteristics of the
3 energy purchased by the customer, including, but not limited to:

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

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

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

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

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

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

26 (3) A uniform emissions disclosure format that is graphic in
27 nature and easily understandable by consumers. The board shall
28 periodically review the disclosure requirements to determine if
29 revisions to the environmental disclosure system as implemented
30 are necessary.

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

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

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

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

46 (2) By July 1, 2009, the board shall adopt, pursuant to the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), a greenhouse gas emissions portfolio standard to mitigate

1 leakage or another regulatory mechanism to mitigate leakage
2 applicable to all electric power suppliers and basic generation
3 service providers that provide electricity to customers within the
4 State. The greenhouse gas emissions portfolio standard or any other
5 regulatory mechanism to mitigate leakage shall:

6 (a) Allow a transition period, either before or after the effective
7 date of the regulation to mitigate leakage, for a basic generation
8 service provider or electric power supplier to either meet the
9 emissions portfolio standard or other regulatory mechanism to
10 mitigate leakage, or to transfer any customer to a basic generation
11 service provider or electric power supplier that meets the emissions
12 portfolio standard or other regulatory mechanism to mitigate
13 leakage. If the transition period allowed pursuant to this
14 subparagraph occurs after the implementation of an emissions
15 portfolio standard or other regulatory mechanism to mitigate
16 leakage, the transition period shall be no longer than three years;
17 and

18 (b) Exempt the provision of basic generation service pursuant to
19 a basic generation service purchase and sale agreement effective
20 prior to the date of the regulation.

21 Unless the Attorney General or the Attorney General's designee
22 determines that a greenhouse gas emissions portfolio standard
23 would unconstitutionally burden interstate commerce or would be
24 preempted by federal law, the adoption by the board of an electric
25 energy efficiency portfolio standard pursuant to subsection **[g.] h.**
26 of this section, a gas energy efficiency portfolio standard pursuant
27 to subsection **[h.] i.** of this section, or any other enhanced energy
28 efficiency policies to mitigate leakage shall not be considered
29 sufficient to fulfill the requirement of this subsection for the
30 adoption of a greenhouse gas emissions portfolio standard or any
31 other regulatory mechanism to mitigate leakage.

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

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

41 (2) beginning on January 1, 2001, that one-half of one percent
42 of the kilowatt hours sold in this State by each electric power
43 supplier and each basic generation service provider be from Class I
44 renewable energy sources. The board shall increase the required
45 percentage for Class I renewable energy sources so that by January
46 1, 2006, one percent of the kilowatt hours sold in this State by each
47 electric power supplier and each basic generation service provider
48 shall be from Class I renewable energy sources and shall

1 additionally increase the required percentage for Class I renewable
 2 energy sources by one-half of one percent each year until January 1,
 3 2012, when four percent of the kilowatt hours sold in this State by
 4 each electric power supplier and each basic generation service
 5 provider shall be from Class I renewable energy sources[.

6 [An electric power supplier or basic generation service provider
 7 may satisfy the requirements of this subsection by participating in a
 8 renewable energy trading program approved by the board in
 9 consultation with the Department of Environmental Protection.] ;
 10 and

11 (3) that the board establish a multi-year schedule, applicable to
 12 each electric power supplier or basic generation service provider in
 13 this State, beginning with the one-year period commencing on June
 14 1, 2010, and continuing for each subsequent one-year period up to
 15 and including, the one-year period commencing on June 1, 2025,
 16 that requires suppliers or providers to purchase at least the
 17 following number of kilowatt-hours from solar electric power
 18 generators in this State:

19 EY 2011	306 Gigawatthours (Gwhrs)
20 EY 2012	442 Gwhrs
21 EY 2013	596 Gwhrs
22 EY 2014	772 Gwhrs
23 EY 2015	965 Gwhrs
24 EY 2016	1,150 Gwhrs
25 EY 2017	1,357 Gwhrs
26 EY 2018	1,591 Gwhrs
27 EY 2019	1,858 Gwhrs
28 EY 2020	2,164 Gwhrs
29 EY 2021	2,518 Gwhrs
30 EY 2022	2,928 Gwhrs
31 EY 2023	3,433 Gwhrs
32 EY 2024	3,989 Gwhrs
33 EY 2025	4,610 Gwhrs
34 EY 2026	5,316 Gwhrs

35 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs
 36 per energy year to reflect an increasing number of kilowatt-hours to
 37 be purchased by suppliers or providers from solar electric power
 38 generators in this State, and to establish a framework within which
 39 suppliers and providers shall purchase at least 2,518 Gwhrs in the
 40 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from
 41 solar electric power generators in this State, provided, however, that
 42 the number of solar kilowatt-hours required to be purchased by each
 43 supplier or provider, when expressed as a percentage of the total
 44 number of solar kilowatt-hours purchased in this State, shall be
 45 equivalent to each supplier's or provider's proportionate share of the
 46 total number of kilowatt-hours sold in this State by all suppliers and
 47 providers.

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

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, or
29 compliance with the requirements of this subsection may be
30 demonstrated to the board by suppliers or providers through the
31 purchase of SRECs.

32 The renewable energy portfolio standards adopted by the board
33 pursuant to paragraphs (1) and (2) of this subsection shall be
34 effective as regulations immediately upon filing with the Office of
35 Administrative Law and shall be effective for a period not to exceed
36 18 months, and may, thereafter, be amended, adopted or readopted
37 by the board in accordance with the provisions of the
38 "Administrative Procedure Act."

39 The renewable energy portfolio standards adopted by the board
40 pursuant to paragraph (3) of this subsection shall be effective as
41 regulations immediately upon filing with the Office of
42 Administrative Law and shall be effective for a period not to exceed
43 30 months after such filing, and shall, thereafter, be amended,
44 adopted or readopted by the board in accordance with the
45 "Administrative Procedure Act."

46 e. Notwithstanding any provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
48 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing:

3 (1) net metering standards for electric power suppliers and basic
4 generation service providers. The standards shall require electric
5 power suppliers and basic generation service providers to offer net
6 metering at non-discriminatory rates to industrial, large
7 commercial, residential and small commercial customers, as those
8 customers are classified or defined by the board, that generate
9 electricity, on the customer's side of the meter, using a Class I
10 renewable energy source, for the net amount of electricity supplied
11 by the electric power supplier or basic generation service provider
12 over an annualized period. Systems of any sized capacity, as
13 measured in watts, are eligible for net metering. If the amount of
14 electricity generated by the customer-generator, plus any kilowatt
15 hour credits held over from the previous billing periods, exceeds the
16 electricity supplied by the electric power supplier or basic
17 generation service provider, then the electric power supplier or
18 basic generation service provider, as the case may be, shall credit
19 the customer-generator for the excess kilowatt hours until the end of
20 the annualized period at which point the customer-generator will be
21 compensated for any remaining credits or, if the customer-generator
22 chooses, credit the customer-generator on a real-time basis, at the
23 electric power supplier's or basic generation service provider's
24 avoided cost of wholesale power or the PJM electric power pool's
25 real-time locational marginal pricing rate, adjusted for losses, for
26 the respective zone in the PJM electric power pool. Alternatively,
27 the customer-generator may execute a bilateral agreement with an
28 electric power supplier or basic generation service provider for the
29 sale and purchase of the customer-generator's excess generation.
30 The customer-generator may be credited on a real-time basis, so
31 long as the customer-generator follows applicable rules prescribed
32 by the PJM electric power pool for its capacity requirements for the
33 net amount of electricity supplied by the electric power supplier or
34 basic generation service provider. The board may authorize an
35 electric power supplier or basic generation service provider to cease
36 offering net metering whenever the total rated generating capacity
37 owned and operated by net metering customer-generators Statewide
38 equals 2.5 percent of the State's peak electricity demand;

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

42 Such standards or rules shall take into consideration the goals of
43 the New Jersey Energy Master Plan, applicable industry standards,
44 and the standards of other states and the Institute of Electrical and
45 Electronic Engineers. The board shall allow electric public utilities
46 to recover the costs of any new net meters, upgraded net meters,
47 system reinforcements or upgrades, and interconnection costs

1 through either their regulated rates or from the net metering
2 customer-generator; and

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

7 Such rules shall require the board or its designee to issue a credit
8 or other incentive to those generators that do not use a net meter but
9 otherwise generate electricity derived from a Class I renewable
10 energy source and to issue an enhanced credit or other incentive,
11 including, but not limited to, a solar renewable energy credit, to
12 those generators that generate electricity derived from solar
13 technologies.

14 Such standards or rules shall be effective as regulations
15 immediately upon filing with the Office of Administrative Law and
16 shall be effective for a period not to exceed 18 months, and may,
17 thereafter, be amended, adopted or readopted by the board in
18 accordance with the provisions of the "Administrative Procedure
19 Act."

20 f. Notwithstanding any provisions of the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
22 contrary, the board shall initiate a proceeding and, after notice,
23 provision of the opportunity for comment, and a public hearing,
24 shall undertake a local government renewable energy generation
25 demonstration project under which the board shall adopt standards
26 which require electric public utilities to offer non-discriminatory
27 rates to an LGREG entity. The electric public utility shall be
28 responsible for reading the utility meters of facilities of
29 municipalities or counties which have established LGREG entities
30 and shall render a bill to each LGREG entity at the standard
31 prevailing tariff rates for electric generation service and electric
32 delivery service that are normally applicable to each such facility
33 and otherwise in accordance with the applicable regulations,
34 including any applicable net metering regulations to the extent a
35 facility meets the requirements of the net metering regulations.
36 Subject to compliance by each licensed CREG system with
37 applicable requirements of the PJM electric power pool for
38 generators, including without limitation, PJM metering
39 requirements, the LGREG entity shall take title to the energy
40 generated by each such CREG system, sell such energy into the
41 PJM electric power pool's real-time energy market, and arrange for
42 the electric public utility to receive the gross payments for energy
43 and capacity received from PJM associated with the energy
44 generated by each such CREG system, without deduction for any
45 fees or penalties paid or payable to PJM by the entity. For each
46 kilowatt-hour of energy sold by the LGREG entity operating a
47 CREG system for which the electric public utility receives such
48 assigned PJM payments, the electric public utility shall pay the

1 LGREG entity an amount equal to the then prevailing per kilowatt-
2 hour BGS rate for fixed price customers, or if there is no such rate,
3 a reasonably comparable amount determined by the board; provided
4 that, if the aggregate generation of all CREG systems operated by
5 an LGREG entity exceeds the aggregate amount of electricity
6 supplied by the electric power supplier or BGS provider to the
7 facilities of the municipality or county over an annualized period,
8 the price for such excess generation shall be the average over such
9 annualized period of the PJM electric power pool's real-time
10 locational marginal pricing rate, adjusted for losses, for the
11 respective zone in the PJM electric power pool, which may require
12 an adjustment to the amounts previously paid by the electric public
13 utility to the LGREG entity. Such payments, or the financial
14 equivalent of such payments, shall be made by the electric public
15 utility to the LGREG entity no more frequently than monthly and
16 may be made through tariff or contract according to the preference
17 of the electric public utility with which LGREG entity is registered.
18 Any difference between the amounts paid by the electric public
19 utility to the LGREG entity and the PJM payments received by the
20 electric public utility associated with such CREG system energy,
21 positive or negative, along with the electric public utility's
22 incremental costs of implementing and administering the payments,
23 shall flow through a reconciliation clause of the electric public
24 utility's tariff.

25 An LGREG entity may contract for and accept any gifts, grants,
26 loans of funds or financial or other aid in any form from any person,
27 including an individual, authority, partnership, or otherwise, or
28 from the United States of America or any agency or instrumentality
29 thereof, or from the State or any agency, instrumentality, or
30 political subdivision thereof to provide funding for any costs
31 associated with the establishment, installation, or operation of a
32 CREG system. CREG systems that are connected to the distribution
33 system may earn eligible energy credits, SRECs, or other applicable
34 incentives. An LGREG entity shall not be considered an electric
35 public utility. All LGREG entities and CREG systems shall be
36 licensed by the board. The board's licensing requirements shall
37 ensure sound and uniform business practices. The board shall adopt
38 and implement an LGREG entity and CREG system licensing
39 procedure within 30 days after the effective date of P.L. ,
40 c. (pending before the Legislature as this bill). For the purposes
41 of the licensing procedure established pursuant to this subsection,
42 the board shall issue an order in writing either approving or
43 disapproving an LGREG entity or CREG system application for
44 licensing within 30 days of the date of receipt of such application.
45 If the board fails to either approve or disapprove the application
46 within the 30-day period, the application shall be deemed to be
47 approved.

1 The purpose of the local government renewable energy
2 generation demonstration project shall be to demonstrate the
3 feasibility of utilizing an LGREG entity or other like entity to allow
4 local governments and other entities, public and private, which own
5 or control noncontiguous properties to benefit from available Class
6 I renewable energy technologies.

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

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

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

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

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

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

21 **[l.] m.** The board shall implement its responsibilities under the
22 provisions of this section in such a manner as to:

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

26 (2) maintain adequate regulatory authority over non-competitive
27 public utility services;

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

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

33 (5) make energy services more affordable for low and moderate
34 income customers;

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

38 (7) achieve the goals put forth under the renewable energy
39 portfolio standards;

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

41 (9) allow all market segments to participate.

42 **[m.] n.** The board shall ensure the availability of financial
43 incentives under its jurisdiction, including, but not limited to, long-
44 term contracts, loans, SRECs, or other financial support, to ensure
45 market diversity, competition, and appropriate coverage across all
46 ratepayer segments, including, but not limited to, residential,
47 commercial, industrial, non-profit, farms, schools, and public entity
48 customers.

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

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

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

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

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

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

25 **[p.] q.** Class I RECs shall be eligible for use in renewable
26 energy portfolio standards compliance in the energy year in which
27 they are generated, and for the following two energy years. SRECs
28 shall be eligible for use in renewable energy portfolio standards
29 compliance in the energy year in which they are generated, and for
30 the following two energy years.

31 (cf: P.L.2009, c.289, s.2)]¹

32
33 ²[¹1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
34 as follows:

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

36 “Approved central renewable energy generation system” or
37 “approved CREG system” means a separately metered, Class I
38 renewable energy generation system that has been established and
39 installed within an eligible municipality with its site plan approved
40 by the municipal governing body or at a site that is within and
41 owned or controlled by a municipality after the effective date of
42 P.L. , c. (pending before the Legislature as this bill), that
43 generates power for sale into the PJM grid, and that is licensed by
44 the board pursuant to subsection f. of section 38 of P.L.1999, c.23
45 (C.48:3-87);

46 "Assignee" means a person to which an electric public utility or
47 another assignee assigns, sells or transfers, other than as security,

1 all or a portion of its right to or interest in bondable transition
2 property. Except as specifically provided in P.L.1999, c.23
3 (C.48:3-49 et al.), an assignee shall not be subject to the public
4 utility requirements of Title 48 or any rules or regulations adopted
5 pursuant thereto;

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

13 "Basic generation service" or "BGS" means electric generation
14 service that is provided, to any customer that has not chosen an
15 alternative electric power supplier, whether or not the customer has
16 received offers for competitive supply options, including, but not
17 limited to, any customer that cannot obtain such service from an
18 electric power supplier for any reason, including non-payment for
19 services. Basic generation service is not a competitive service and
20 shall be fully regulated by the board;

21 "Basic generation service provider" or "provider" means a
22 provider of basic generation service;

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

44 "Board" means the New Jersey Board of Public Utilities or any
45 successor agency;

46 "Bondable stranded costs" means any stranded costs or basic
47 generation service transition costs of an electric public utility
48 approved by the board for recovery pursuant to the provisions of

1 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
2 board: (1) the cost of retiring existing debt or equity capital of the
3 electric public utility, including accrued interest, premium and other
4 fees, costs and charges relating thereto, with the proceeds of the
5 financing of bondable transition property; (2) if requested by an
6 electric public utility in its application for a bondable stranded costs
7 rate order, federal, State and local tax liabilities associated with
8 stranded costs recovery or basic generation service transition cost
9 recovery or the transfer or financing of such property or both,
10 including taxes, whose recovery period is modified by the effect of
11 a stranded costs recovery order, a bondable stranded costs rate order
12 or both; and (3) the costs incurred to issue, service or refinance
13 transition bonds, including interest, acquisition or redemption
14 premium, and other financing costs, whether paid upon issuance or
15 over the life of the transition bonds, including, but not limited to,
16 credit enhancements, service charges, overcollateralization, interest
17 rate cap, swap or collar, yield maintenance, maturity guarantee or
18 other hedging agreements, equity investments, operating costs and
19 other related fees, costs and charges, or to assign, sell or otherwise
20 transfer bondable transition property;

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

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

46 "British thermal unit" or "Btu" means the amount of heat
47 required to increase the temperature of one pound of water by one
48 degree Fahrenheit;

1 "Broker" means a duly licensed electric power supplier that
2 assumes the contractual and legal responsibility for the sale of
3 electric generation service, transmission or other services to end-use
4 retail customers, but does not take title to any of the power sold, or
5 a duly licensed gas supplier that assumes the contractual and legal
6 obligation to provide gas supply service to end-use retail customers,
7 but does not take title to the gas;

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

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

19 "Class I renewable energy" means electric energy produced from
20 solar technologies, photovoltaic technologies, wind energy, fuel
21 cells, geothermal technologies, wave or tidal action, and methane
22 gas from landfills or a biomass facility, provided that the biomass is
23 cultivated and harvested in a sustainable manner;

24 "Class II renewable energy" means electric energy produced at a
25 resource recovery facility or hydropower facility, provided that
26 such facility is located where retail competition is permitted and
27 provided further that the Commissioner of Environmental
28 Protection has determined that such facility meets the highest
29 environmental standards and minimizes any impacts to the
30 environment and local communities;

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

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

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

44 "Commercial and industrial energy pricing class customer" or
45 "CIEP class customer" means that group of non-residential
46 customers with high peak demand, as determined by periodic board
47 order, which either is eligible or which would be eligible, as
48 determined by periodic board order, to receive funds from the Retail

1 Margin Fund established pursuant to section 9 of P.L.1999, c.23
2 (C.48:3-57) and for which basic generation service is hourly-priced;

3 "Comprehensive resource analysis" means an analysis including,
4 but not limited to, an assessment of existing market barriers to the
5 implementation of energy efficiency and renewable technologies
6 that are not or cannot be delivered to customers through a
7 competitive marketplace;

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

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

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

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

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

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

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

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

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

12 "Eligible municipality" means a municipality with an approved
13 CREG system that has submitted an application to PJM by
14 December 31, 2010 and (1) has its approved CREG system located
15 on an existing brownfields development area as designated by the
16 New Jersey Department of Environmental Protection pursuant to
17 section 7 of P.L.2005, c.223 (C.58:10B-25.1); or (2) has its
18 approved CREG system located on property that is included as a
19 site on the National Priorities List pursuant to the Comprehensive
20 Environmental Response, Compensation, and Liability Act of
21 1980," 42 U.S.C. s.9605 within the municipality's borders; or (3)
22 has a federal military installation located partially or entirely within
23 its borders;

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

30 "Energy consumer" means a business or residential consumer of
31 electric generation service or gas supply service located within the
32 territorial jurisdiction of a government aggregator;

33 "Energy efficiency portfolio standard" means a requirement to
34 procure a specified amount of energy efficiency or demand side
35 management resources as a means of managing and reducing energy
36 usage and demand by customers;

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

40 "Federal military installation" means a base, camp, post, station,
41 yard, center, homeport facility or ship, or any other activity under
42 the jurisdiction of a department, agency, or other instrumentality of
43 the federal Department of Defense, including a leased facility,
44 except that such term shall not include any facility used primarily
45 for civil works, rivers and harbor projects, or flood control projects;

46 "Financing entity" means an electric public utility, a special
47 purpose entity, or any other assignee of bondable transition
48 property, which issues transition bonds. Except as specifically

1 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
2 which is not itself an electric public utility shall not be subject to
3 the public utility requirements of Title 48 or any rules or regulations
4 adopted pursuant thereto;

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

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

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

29 "Gas supply service" means the provision to customers of the
30 retail commodity of gas, but does not include any regulated
31 distribution service;

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

44 "Government energy aggregation program" means a program and
45 procedure pursuant to which a government aggregator enters into a
46 written contract for the provision of electric generation service or
47 gas supply service on behalf of business or residential customers
48 within its territorial jurisdiction;

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

4 "Greenhouse gas emissions portfolio standard" means a
5 requirement that addresses or limits the amount of carbon dioxide
6 emissions indirectly resulting from the use of electricity as applied
7 to any electric power suppliers and basic generation service
8 providers of electricity;

9 "Leakage" means an increase in greenhouse gas emissions
10 related to generation sources located outside of the State that are not
11 subject to a state, interstate or regional greenhouse gas emissions
12 cap or standard that applies to generation sources located within the
13 State;

14 "Local government renewable energy generation entity" or
15 "LGREG entity" means a subdivision, office, or department of, or a
16 limited liability corporation or other legal entity established by, a
17 municipality, which entity is licensed by the board pursuant to
18 subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87), which
19 oversees the establishment and installation of, and which arranges
20 to purchase a portion of the production of, an approved CREG
21 system, limited to no more than five megawatts of the CREG
22 system's capacity, to help meet the electricity-related needs of the
23 municipality or the electricity related needs of other governmental
24 entities for their operations that are within or adjacent to the
25 municipality;

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

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

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

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

46 "Offshore wind energy" means electric energy produced by a
47 qualified offshore wind project;

1 "Offshore wind renewable energy certificate" or "OREC" means
2 a certificate, issued by the board or its designee, representing the
3 environmental attributes of one megawatt hour of electric
4 generation from a qualified offshore wind project;

5 "Off-site end use thermal energy services customer" means an
6 end use customer that purchases thermal energy services from an
7 on-site generation facility, combined heat and power facility, or co-
8 generation facility, and that is located on property that is separated
9 from the property on which the on-site generation facility,
10 combined heat and power facility, or co-generation facility is
11 located by more than one easement, public thoroughfare, or
12 transportation or utility-owned right-of-way;

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

29 "Person" means an individual, partnership, corporation,
30 association, trust, limited liability company, governmental entity or
31 other legal entity;

32 "Private aggregator" means a non-government aggregator that is
33 a duly-organized business or non-profit organization authorized to
34 do business in this State that enters into a contract with a duly
35 licensed electric power supplier for the purchase of electric energy
36 and capacity, or with a duly licensed gas supplier for the purchase
37 of gas supply service, on behalf of multiple end-use customers by
38 combining the loads of those customers;

39 "Public utility holding company" means: (1) any company that,
40 directly or indirectly, owns, controls, or holds with power to vote,
41 ten percent or more of the outstanding voting securities of an
42 electric public utility or a gas public utility or of a company which
43 is a public utility holding company by virtue of this definition,
44 unless the Securities and Exchange Commission, or its successor,
45 by order declares such company not to be a public utility holding
46 company under the Public Utility Holding Company Act of 1935,
47 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
48 Securities and Exchange Commission, or its successor, determines,

1 after notice and opportunity for hearing, directly or indirectly, to
2 exercise, either alone or pursuant to an arrangement or
3 understanding with one or more other persons, such a controlling
4 influence over the management or policies of an electric public
5 utility or a gas public utility or public utility holding company as to
6 make it necessary or appropriate in the public interest or for the
7 protection of investors or consumers that such person be subject to
8 the obligations, duties, and liabilities imposed in the Public Utility
9 Holding Company Act of 1935 or its successor;

10 "Qualified offshore wind project" means a wind turbine
11 electricity generation facility in the Atlantic Ocean and connected
12 to the electric transmission system in this State, and includes the
13 associated transmission-related interconnection facilities and
14 equipment, and approved by the board pursuant to section 3 of
15 P.L.2010, c.57 (C.48:3-87.1);

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

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

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

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

39 "Resource recovery facility" means a solid waste facility
40 constructed and operated for the incineration of solid waste for
41 energy production and the recovery of metals and other materials
42 for reuse;

43 "Restructuring related costs" means reasonably incurred costs
44 directly related to the restructuring of the electric power industry,
45 including the closure, sale, functional separation and divestiture of
46 generation and other competitive utility assets by a public utility, or
47 the provision of competitive services as such costs are determined
48 by the board, and which are not stranded costs as defined in

1 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
2 to, investments in management information systems, and which
3 shall include expenses related to employees affected by
4 restructuring which result in efficiencies and which result in
5 benefits to ratepayers, such as training or retraining at the level
6 equivalent to one year's training at a vocational or technical school
7 or county community college, the provision of severance pay of two
8 weeks of base pay for each year of full-time employment, and a
9 maximum of 24 months' continued health care coverage. Except as
10 to expenses related to employees affected by restructuring,
11 "restructuring related costs" shall not include going forward costs;

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

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

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

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

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

45 "Solar alternative compliance payment" or "SACP" means a
46 payment of a certain dollar amount per megawatt hour (MWh)
47 which an electric power supplier or provider may submit to the

1 board in order to comply with the solar electric generation
2 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

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

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

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

22 "Thermal efficiency" means the useful electric energy output of a
23 facility, plus the useful thermal energy output of the facility,
24 expressed as a percentage of the total energy input to the facility;

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

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

43 "Transition period" means the period from August 1, 1999
44 through July 31, 2003;

45 "Transmission and distribution system" means, with respect to an
46 electric public utility, any facility or equipment that is used for the
47 transmission, distribution or delivery of electricity to the customers
48 of the electric public utility including, but not limited to, the land,

1 structures, meters, lines, switches and all other appurtenances
2 thereof and thereto, owned or controlled by the electric public
3 utility within this State; and

4 "Universal service" means any service approved by the board
5 with the purpose of assisting low-income residential customers in
6 obtaining or retaining electric generation or delivery service.¹

7 (cf: P.L.2010, c.57, s.1)]²

8

9 ²1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
10 as follows:

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

12 "Approved central renewable energy generation system" or
13 "approved CREG system" means a separately metered, Class I
14 renewable energy generation system that has been established and
15 installed within an eligible municipality with its site plan approved
16 by the municipal governing body or at a site that is within and
17 owned or controlled by a municipality after the effective date of
18 P.L. , c. (pending before the Legislature as this bill), that
19 generates power for sale into the PJM grid, and that is licensed by
20 the board pursuant to subsection f. of section 38 of P.L.1999, c.23
21 (C.48:3-87);

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

29 "Base load electric power generation facility" means an electric
30 power generation facility intended to be operated at a greater than
31 50 percent capacity factor including, but not limited to, a combined
32 cycle power facility and a combined heat and power facility;

33 "Base residual auction" means the auction conducted by PJM, as
34 part of PJM's reliability pricing model, three years prior to the start
35 of the delivery year to secure electrical capacity as necessary to
36 satisfy the capacity requirements for that delivery year;

37 "Basic gas supply service" means gas supply service that is
38 provided to any customer that has not chosen an alternative gas
39 supplier, whether or not the customer has received offers as to
40 competitive supply options, including, but not limited to, any
41 customer that cannot obtain such service for any reason, including
42 non-payment for services. Basic gas supply service is not a
43 competitive service and shall be fully regulated by the board;

44 "Basic generation service" or "BGS" means electric generation
45 service that is provided, to any customer that has not chosen an
46 alternative electric power supplier, whether or not the customer has
47 received offers for competitive supply options, including, but not
48 limited to, any customer that cannot obtain such service from an

1 electric power supplier for any reason, including non-payment for
2 services. Basic generation service is not a competitive service and
3 shall be fully regulated by the board;

4 "Basic generation service provider" or "provider" means a
5 provider of basic generation service;

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

27 "Board" means the New Jersey Board of Public Utilities or any
28 successor agency;

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

1 other hedging agreements, equity investments, operating costs and
2 other related fees, costs and charges, or to assign, sell or otherwise
3 transfer bondable transition property;

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

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

29 "British thermal unit" or "Btu" means the amount of heat
30 required to increase the temperature of one pound of water by one
31 degree Fahrenheit;

32 "Broker" means a duly licensed electric power supplier that
33 assumes the contractual and legal responsibility for the sale of
34 electric generation service, transmission or other services to end-use
35 retail customers, but does not take title to any of the power sold, or
36 a duly licensed gas supplier that assumes the contractual and legal
37 obligation to provide gas supply service to end-use retail customers,
38 but does not take title to the gas;

39 "Buydown" means an arrangement or arrangements involving the
40 buyer and seller in a given power purchase contract and, in some
41 cases third parties, for consideration to be given by the buyer in
42 order to effectuate a reduction in the pricing, or the restructuring of
43 other terms to reduce the overall cost of the power contract, for the
44 remaining succeeding period of the purchased power arrangement
45 or arrangements;

46 "Buyout" means an arrangement or arrangements involving the
47 buyer and seller in a given power purchase contract and, in some

1 cases third parties, for consideration to be given by the buyer in
2 order to effectuate a termination of such power purchase contract;

3 "Class I renewable energy" means electric energy produced from
4 solar technologies, photovoltaic technologies, wind energy, fuel
5 cells, geothermal technologies, wave or tidal action, and methane
6 gas from landfills or a biomass facility, provided that the biomass is
7 cultivated and harvested in a sustainable manner;

8 "Class II renewable energy" means electric energy produced at a
9 resource recovery facility or hydropower facility, provided that
10 such facility is located where retail competition is permitted and
11 provided further that the Commissioner of Environmental
12 Protection has determined that such facility meets the highest
13 environmental standards and minimizes any impacts to the
14 environment and local communities;

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

18 "Combined cycle power facility" means a generation facility that
19 combines two or more thermodynamic cycles, by producing electric
20 power via the combustion of fuel and then routing the resulting
21 waste heat by-product to a conventional boiler or to a heat recovery
22 steam generator for use by a steam turbine to produce electric
23 power, thereby increasing the overall efficiency of the generating
24 facility;

25 "Combined heat and power facility" or "co-generation facility"
26 means a generation facility which produces electric energy, steam,
27 or other forms of useful energy such as heat, which are used for
28 industrial or commercial heating or cooling purposes. A combined
29 heat and power facility or co-generation facility shall not be
30 considered a public utility;

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

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

42 "Comprehensive resource analysis" means an analysis including,
43 but not limited to, an assessment of existing market barriers to the
44 implementation of energy efficiency and renewable technologies
45 that are not or cannot be delivered to customers through a
46 competitive marketplace;

47 "Customer" means any person that is an end user and is
48 connected to any part of the transmission and distribution system

1 within an electric public utility's service territory or a gas public
2 utility's service territory within this State;

3 "Customer account service" means metering, billing, or such
4 other administrative activity associated with maintaining a customer
5 account;

6 "Delivery year" or "DY" means the 12-month period from June
7 1st through May 31st, numbered according to the calendar year in
8 which it ends;

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

15 "Electric generation service" means the provision of retail
16 electric energy and capacity which is generated off-site from the
17 location at which the consumption of such electric energy and
18 capacity is metered for retail billing purposes, including agreements
19 and arrangements related thereto;

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

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

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

43 "Electric related service" means a service that is directly related
44 to the consumption of electricity by an end user, including, but not
45 limited to, the installation of demand side management measures at
46 the end user's premises, the maintenance, repair or replacement of
47 appliances, lighting, motors or other energy-consuming devices at

1 the end user's premises, and the provision of energy consumption
2 measurement and billing services;

3 "Electronic signature" means an electronic sound, symbol or
4 process, attached to, or logically associated with, a contract or other
5 record, and executed or adopted by a person with the intent to sign
6 the record;

7 "Eligible generator" means a developer of a base load or mid-
8 merit electric power generation facility including, but not limited to,
9 an on-site generation facility that qualifies as a capacity resource
10 under PJM criteria and that commences construction after the
11 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

12 "Eligible municipality" means a municipality with an approved
13 CREG system that has submitted an application to PJM by
14 December 31, 2012 and (1) has its approved CREG system located
15 on an existing brownfields development area as designated by the
16 New Jersey Department of Environmental Protection pursuant to
17 section 7 of P.L.2005, c.223 (C.58:10B-25.1); or (2) has its
18 approved CREG system located on property that is included as a
19 site on the National Priorities List pursuant to the Comprehensive
20 Environmental Response, Compensation, and Liability Act of
21 1980," 42 U.S.C. s.9605 within the municipality's borders; or (3)
22 has a federal military installation located partially or entirely within
23 its borders;

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

30 "Energy consumer" means a business or residential consumer of
31 electric generation service or gas supply service located within the
32 territorial jurisdiction of a government aggregator;

33 "Energy efficiency portfolio standard" means a requirement to
34 procure a specified amount of energy efficiency or demand side
35 management resources as a means of managing and reducing energy
36 usage and demand by customers;

37 "Energy year" or "EY" means the 12-month period from June 1st
38 through May 31st, numbered according to the calendar year in
39 which it ends;

40 "Federal Energy Regulatory Commission" or "FERC" means the
41 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
42 regulate the interstate transmission of electricity, natural gas, and
43 oil;

44 "Federal military installation" means a base, camp, post, station,
45 yard, center, homeport facility or ship, or any other activity under
46 the jurisdiction of a department, agency, or other instrumentality of
47 the federal Department of Defense, including a leased facility,

1 except that such term shall not include any facility used primarily
2 for civil works, rivers and harbor projects, or flood control projects:

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

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

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

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

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

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

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

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

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

14 "Incremental auction" means an auction conducted by PJM, as
15 part of PJM's reliability pricing model, prior to the start of the
16 delivery year to secure electric capacity as necessary to satisfy the
17 capacity requirements for that delivery year, that is not otherwise
18 provided for in the base residual auction;

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

24 "Local government renewable energy generation entity" or
25 "LGREG entity" means a subdivision, office, or department of, or a
26 limited liability corporation or other legal entity established by, a
27 municipality, which entity is licensed by the board pursuant to
28 subsection f. of section 38 of P.L.1999, c.23 (C.48:3-87), which
29 oversees the establishment and installation of, and which arranges
30 to purchase a portion of the production of, an approved CREG
31 system, limited to no more than five megawatts of the CREG
32 system's capacity, to help meet the electricity-related needs of the
33 municipality or the electricity related needs of other governmental
34 entities for their operations that are within or adjacent to the
35 municipality;

36 "Locational deliverability area" or "LDA" means one or more of
37 the zones within the PJM region which are used to evaluate area
38 transmission constraints and reliability issues including electric
39 public utility company zones, sub-zones, and combinations of
40 zones;

41 "Long-term capacity agreement pilot program" or "LCAPP"
42 means a pilot program established by the board that includes
43 participation by eligible generators, to seek offers for financially-
44 settled standard offer capacity agreements with eligible generators
45 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.);

46 "Market transition charge" means a charge imposed pursuant to
47 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
48 utility, at a level determined by the board, on the electric public

1 utility customers for a limited duration transition period to recover
2 stranded costs created as a result of the introduction of electric
3 power supply competition pursuant to the provisions of P.L.1999,
4 c.23 (C.48:3-49 et al.);

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

14 "Mid-merit electric power generation facility" means a
15 generation facility that operates at a capacity factor between
16 baseload generation facilities and peaker generation facilities;

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

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

21 "Offshore wind energy" means electric energy produced by a
22 qualified offshore wind project;

23 "Offshore wind renewable energy certificate" or "OREC" means
24 a certificate, issued by the board or its designee, representing the
25 environmental attributes of one megawatt hour of electric
26 generation from a qualified offshore wind project;

27 "Off-site end use thermal energy services customer" means an
28 end use customer that purchases thermal energy services from an
29 on-site generation facility, combined heat and power facility, or co-
30 generation facility, and that is located on property that is separated
31 from the property on which the on-site generation facility,
32 combined heat and power facility, or co-generation facility is
33 located by more than one easement, public thoroughfare, or
34 transportation or utility-owned right-of-way;

35 "On-site generation facility" means a generation facility, and
36 equipment and services appurtenant to electric **[sales]** output by
37 such facility to the end use customer located on the property or on
38 property contiguous to the property on which the end user is
39 located. An on-site generation facility shall not be considered a
40 public utility. The property of the end use customer and the
41 property on which the on-site generation facility is located shall be
42 considered contiguous if they are geographically located next to
43 each other, but may be otherwise separated by an easement, public
44 thoroughfare, transportation or utility-owned right-of-way, or if the
45 end use customer is purchasing thermal energy services produced
46 by the on-site generation facility, for use for heating or cooling, or
47 both, regardless of whether the customer is located on property that
48 is separated from the property on which the on-site generation

1 facility is located by more than one easement, public thoroughfare,
2 or transportation or utility-owned right-of-way;

3 "Person" means an individual, partnership, corporation,
4 association, trust, limited liability company, governmental entity or
5 other legal entity;

6 "PJM Interconnection, L.L.C." or "PJM" means the privately-
7 held, limited liability corporation that is a FERC-approved Regional
8 Transmission Organization, or its successor, that manages the
9 regional, high-voltage electricity grid serving all or parts of 13
10 states including New Jersey and the District of Columbia, operates
11 the regional competitive wholesale electric market, manages the
12 regional transmission planning process, and establishes systems and
13 rules to ensure that the regional and in-State energy markets operate
14 fairly and efficiently;

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

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

41 "Qualified offshore wind project" means a wind turbine
42 electricity generation facility in the Atlantic Ocean and connected
43 to the electric transmission system in this State, and includes the
44 associated transmission-related interconnection facilities and
45 equipment, and approved by the board pursuant to section 3 of
46 P.L.2010, c.57 (C.48:3-87.1);

47 "Regulatory asset" means an asset recorded on the books of an
48 electric public utility or gas public utility pursuant to the Statement

1 of Financial Accounting Standards, No. 71, entitled "Accounting for
2 the Effects of Certain Types of Regulation," or any successor
3 standard and as deemed recoverable by the board;

4 "Related competitive business segment of an electric public
5 utility or gas public utility" means any business venture of an
6 electric public utility or gas public utility including, but not limited
7 to, functionally separate business units, joint ventures, and
8 partnerships, that offers to provide or provides competitive services;

9 "Related competitive business segment of a public utility holding
10 company" means any business venture of a public utility holding
11 company, including, but not limited to, functionally separate
12 business units, joint ventures, and partnerships and subsidiaries, that
13 offers to provide or provides competitive services, but does not
14 include any related competitive business segments of an electric
15 public utility or gas public utility;

16 "Reliability pricing model" or "RPM" means PJM's capacity-
17 market model, and its successors, that secures capacity on behalf of
18 electric load serving entities to satisfy load obligations not satisfied
19 through the output of electric generation facilities owned by those
20 entities, or otherwise secured by those entities through bilateral
21 contracts;

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 clearing price" or "RCP" means the clearing price
29 established for the applicable locational deliverability area by the
30 base residual auction or incremental auction, as determined by the
31 optimization algorithm for each auction, conducted by PJM as part
32 of PJM's reliability pricing model;

33 "Resource recovery facility" means a solid waste facility
34 constructed and operated for the incineration of solid waste for
35 energy production and the recovery of metals and other materials
36 for reuse;

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

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

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

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

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

27 "Social program" means a program implemented with board
28 approval to provide assistance to a group of disadvantaged
29 customers, to provide protection to consumers, or to accomplish a
30 particular societal goal, and includes, but is not limited to, the
31 winter moratorium program, utility practices concerning "bad debt"
32 customers, low income assistance, deferred payment plans,
33 weatherization programs, and late payment and deposit policies, but
34 does not include any demand side management program or any
35 environmental requirements or controls;

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

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

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

1 "Standard offer capacity agreement" or "SOCA" means a
2 financially-settled transaction agreement, approved by board order,
3 that provides for eligible generators to receive payments from the
4 electric public utilities for a defined amount of electric capacity for
5 a term to be determined by the board but not to exceed 15 years,
6 and for such payments to be a fully non-bypassable charge, with
7 such an order, once issued, being irrevocable;

8 "Standard offer capacity price" or "SOCP" means the capacity
9 price that is fixed for the term of the SOCA and which is the price
10 to be received by eligible generators under a board-approved
11 SOCA;

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

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

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

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

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

47 "Transition period" means the period from August 1, 1999
48 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.²

11 (cf: P.L.2011, c.9, s.2)

12
13 ¹2. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
14 as follows:

15 38. a. The board shall require an electric power supplier or basic
16 generation service provider to disclose on a customer's bill or on
17 customer contracts or marketing materials, a uniform, common set
18 of information about the environmental characteristics of the energy
19 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.

47 Such standards shall be effective as regulations immediately
48 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.] h.**
42 of this section, a gas energy efficiency portfolio standard pursuant
43 to subsection **[h.] i.** 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 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
48 EY 2024	3,989 Gwhrs

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

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

40 An electric power supplier or basic generation service provider
41 may satisfy the requirements of this subsection by participating in a
42 renewable energy trading program approved by the board in
43 consultation with the Department of Environmental Protection, or
44 compliance with the requirements of this subsection may be
45 demonstrated to the board by suppliers or providers through the
46 purchase of SRECs.

47 The renewable energy portfolio standards adopted by the board
48 pursuant to paragraphs (1) and (2) of this subsection shall be

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

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

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

20 The percentage established by the board pursuant to this
21 paragraph shall serve as an offset to the renewable energy portfolio
22 standard established pursuant to paragraphs (1) and (2) of this
23 subsection and shall reduce the corresponding Class I renewable
24 energy requirement.

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

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

43 The rules established by the board pursuant to this paragraph
44 shall be effective as regulations immediately upon filing with the
45 Office of Administrative Law and shall be effective for a period not
46 to exceed 18 months, and may, thereafter, be amended, adopted or
47 readopted by the board in accordance with the provisions of the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.).

3 e. 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:

8 (1) net metering standards for electric power suppliers and basic
9 generation service providers. The standards shall require electric
10 power suppliers and basic generation service providers to offer net
11 metering at non-discriminatory rates to industrial, large
12 commercial, residential and small commercial customers, as those
13 customers are classified or defined by the board, that generate
14 electricity, on the customer's side of the meter, using a Class I
15 renewable energy source, for the net amount of electricity supplied
16 by the electric power supplier or basic generation service provider
17 over an annualized period. Systems of any sized capacity, as
18 measured in watts, are eligible for net metering. If the amount of
19 electricity generated by the customer-generator, plus any kilowatt
20 hour credits held over from the previous billing periods, exceeds the
21 electricity supplied by the electric power supplier or basic
22 generation service provider, then the electric power supplier or
23 basic generation service provider, as the case may be, shall credit
24 the customer-generator for the excess kilowatt hours until the end of
25 the annualized period at which point the customer-generator will be
26 compensated for any remaining credits or, if the customer-generator
27 chooses, credit the customer-generator on a real-time basis, at the
28 electric power supplier's or basic generation service provider's
29 avoided cost of wholesale power or the PJM electric power pool's
30 real-time locational marginal pricing rate, adjusted for losses, for
31 the respective zone in the PJM electric power pool. Alternatively,
32 the customer-generator may execute a bilateral agreement with an
33 electric power supplier or basic generation service provider for the
34 sale and purchase of the customer-generator's excess generation.
35 The customer-generator may be credited on a real-time basis, so
36 long as the customer-generator follows applicable rules prescribed
37 by the PJM electric power pool for its capacity requirements for the
38 net amount of electricity supplied by the electric power supplier or
39 basic generation service provider. The board may authorize an
40 electric power supplier or basic generation service provider to cease
41 offering net metering whenever the total rated generating capacity
42 owned and operated by net metering customer-generators Statewide
43 equals 2.5 percent of the State's peak electricity demand;

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

47 Such standards or rules shall take into consideration the goals of
48 the New Jersey Energy Master Plan, applicable industry standards,

1 and the standards of other states and the Institute of Electrical and
2 Electronic Engineers. The board shall allow electric public utilities
3 to recover the costs of any new net meters, upgraded net meters,
4 system reinforcements or upgrades, and interconnection costs
5 through either their regulated rates or from the net metering
6 customer-generator; and

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

11 Such rules shall require the board or its designee to issue a credit
12 or other incentive to those generators that do not use a net meter but
13 otherwise generate electricity derived from a Class I renewable
14 energy source and to issue an enhanced credit or other incentive,
15 including, but not limited to, a solar renewable energy credit, to
16 those generators that generate electricity derived from solar
17 technologies.

18 Such standards or rules shall be effective as regulations
19 immediately upon filing with the Office of Administrative Law and
20 shall be effective for a period not to exceed 18 months, and may,
21 thereafter, be amended, adopted or readopted by the board in
22 accordance with the provisions of the "Administrative Procedure
23 Act."

24 f. Notwithstanding any provisions of the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
26 contrary, the board shall, immediately upon the effective date of
27 P.L. , c. (pending before the Legislature as this bill), permit
28 local government renewable energy generation demonstration
29 projects for which the board shall adopt standards which require
30 electric public utilities to offer non-discriminatory rates to the
31 applicable LGREG entities. The electric public utility shall be
32 responsible for reading the utility meters of facilities of government
33 entities which are members of established LGREG entities and shall
34 render a bill to each LGREG entity at the standard prevailing tariff
35 rates for electric generation service and electric delivery service that
36 are normally applicable to each such facility and otherwise in
37 accordance with the applicable regulations, including any
38 applicable net metering regulations to the extent a facility meets the
39 requirements of the net metering regulations. Subject to
40 compliance by each licensed approved CREG system with
41 applicable requirements of the PJM electric power pool for
42 generators, including without limitation, PJM metering
43 requirements, the LGREG entity shall take title to the energy
44 generated by each such approved CREG system, sell such energy
45 into the PJM electric power pool's real-time energy market, and
46 arrange for the electric public utility to receive the gross payments
47 for energy and capacity received from PJM associated with the
48 energy generated by each such approved CREG system, without

1 deduction for any fees or penalties paid or payable to PJM by the
2 entity. For each kilowatt-hour of energy sold by the LGREG entity
3 from such an approved CREG system for which the electric public
4 utility receives such assigned PJM payments, the electric public
5 utility shall pay the LGREG entity an amount equal to the then
6 prevailing per kilowatt-hour BGS rate for fixed price customers, or
7 if there is no such rate, a reasonably comparable amount determined
8 by the board; provided that, if the aggregate generation of all
9 approved CREG systems serving an LGREG entity exceeds the
10 aggregate amount of electricity supplied by the electric power
11 supplier or BGS provider to the CREG-serving facilities over an
12 annualized period, the price for such excess generation shall be the
13 average over such annualized period of the PJM electric power
14 pool's real-time locational marginal pricing rate, adjusted for
15 losses, for the respective zone in the PJM electric power pool,
16 which may require an adjustment to future payments for the
17 amounts previously paid by the electric public utility to the LGREG
18 entity. Such payments, or the financial equivalent of such
19 payments, shall be made by the electric public utility to the LGREG
20 entity monthly and may be made through tariff or contract
21 according to the preference of the electric public utility with which
22 LGREG entity is registered. Any difference between the amounts
23 paid by the electric public utility to the LGREG entity and the PJM
24 payments received by the electric public utility associated with such
25 approved CREG system energy, positive or negative, along with the
26 electric public utility's incremental costs of implementing and
27 administering the payments, shall flow through a reconciliation
28 clause of the electric public utility's tariff.

29 An LGREG entity may contract for and accept any gifts, grants,
30 loans of funds or financial or other aid in any form from any person,
31 including an individual, authority, partnership, or otherwise, or
32 from the United States of America or any agency or instrumentality
33 thereof, or from the State or any agency, instrumentality, or
34 political subdivision thereof to provide funding for any costs
35 associated with the establishment, installation, or operation of an
36 approved CREG system. Approved CREG systems that are
37 connected to the distribution system may earn eligible energy
38 credits, SRECs, or other applicable incentives. An LGREG entity
39 shall not be considered an electric public utility. All LGREG
40 entities and approved CREG systems shall be licensed by the
41 board. The board's licensing requirements shall ensure sound and
42 uniform business practices. The board shall adopt and implement
43 an LGREG entity and approved CREG system licensing procedure
44 within 30 days after the effective date of P.L. ,
45 c. (pending before the Legislature as this bill). For the purposes
46 of the licensing procedure established pursuant to this subsection,
47 the board shall issue an order in writing either approving or
48 disapproving an LGREG entity or approved CREG system

1 application for licensing within 30 days of the date of receipt of
2 such application. If the board fails to either approve or disapprove
3 the application within the 30-day period, the application shall be
4 deemed to be approved.

5 The purpose of the local government renewable energy
6 generation demonstration projects shall be to demonstrate the
7 feasibility of utilizing LGREG entities or other like entities to allow
8 local governments and other entities, public and private, which own
9 or control noncontiguous properties to benefit from or provide
10 available Class I renewable energy technologies.

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

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

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

43 **[i.] j.** After the board establishes a schedule of solar kilowatt-
44 hour sale or purchase requirements pursuant to paragraph (3) of
45 subsection d. of this section, the board may initiate subsequent
46 proceedings and adopt, after appropriate notice and opportunity for
47 public comment and public hearing, increased minimum solar
48 kilowatt-hour sale or purchase requirements, provided that the

1 board shall not reduce previously established minimum solar
2 kilowatt-hour sale or purchase requirements, or otherwise impose
3 constraints that reduce the requirements by any means.

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

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

24 **[l.]** m. The board shall implement its responsibilities under the
25 provisions of this section in such a manner as to:

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

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

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

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

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

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

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

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

44 (9) allow all market segments to participate.

45 **[m.]** n. The board shall ensure the availability of financial
46 incentives under its jurisdiction, including, but not limited to, long-
47 term contracts, loans, SRECs, or other financial support, to ensure
48 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.] o.** For projects which are owned, or directly invested in, by
5 a 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.] p.** The board, in consultation with the Department of
12 Environmental Protection, electric public utilities, the Division of
13 Rate Counsel in, but not of, the Department of the Treasury,
14 affected members of the solar energy industry, and relevant
15 stakeholders, shall periodically consider increasing the renewable
16 energy portfolio standards beyond the minimum amounts set forth
17 in 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.] q.** Class I RECs shall be eligible for use in renewable
29 energy portfolio standards compliance in the energy year in which
30 they are generated, and for the following two energy years. SRECs
31 and ORECs shall be eligible for use in renewable energy portfolio
32 standards compliance in the energy year in which they are
33 generated, and for the following two energy years.¹

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

35

36 3. This act shall take effect immediately.