

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
214th LEGISLATURE

ADOPTED MAY 13, 2010

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SYNOPSIS

Authorizes creation of local renewable energy collaboratives and central renewable energy generation systems, and provides for sale of renewable power generation.

CURRENT VERSION OF TEXT

As reported by the Assembly Telecommunications and Utilities Committee on September 13, 2010, with amendments.

(Sponsorship Updated As Of: 12/6/2011)

1 AN ACT authorizing the establishment of local renewable energy
2 collaboratives and central renewable energy generation systems,
3 and 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 ²[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

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:

¹ **Senate floor amendments adopted June 10, 2010.**

² **Assembly ATU committee amendments adopted September 13, 2010.**

1 (C.48:3-49 et al.). Basic generation service transition costs shall
2 include, but are not limited to, costs of purchases from the spot
3 market, bilateral contracts, contracts with non-utility generators,
4 parting contracts with the purchaser of the electric public utility's
5 divested generation assets, short-term advance purchases, and
6 financial instruments such as hedging, forward contracts, and
7 options. Basic generation service transition costs shall also include
8 the payments by an electric public utility pursuant to a competitive
9 procurement process for basic generation service supply during the
10 transition period, and costs of any such process used to procure the
11 basic generation service supply;

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

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

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

1 become effective immediately upon the written consent of the
2 related electric public utility to such order as provided in P.L.1999,
3 c.23;

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

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

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

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

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

36 "Central renewable energy generation system" or "CREG
37 system" means a separately metered, Class I renewable energy
38 generation system that has been 'established and' installed at a site
39 'after the effective date of P.L. , c. (C.) (pending before the
40 Legislature as this bill)' , that provides power to '[an LREC] one or
41 more LRECs' , 'that' sells power into the PJM grid, and '[which]
42 that' is '[registered with] licensed by' the board pursuant to
43 'subsection f. of section 38 of' P.L.1999, c.23 [(C.48:3-49 et al.)]
44 (C.48:3-87)';

45 "Class I renewable energy" means electric energy produced from
46 solar technologies, photovoltaic technologies, wind energy, fuel
47 cells, geothermal technologies, wave or tidal action, and methane

1 gas from landfills or a biomass facility, provided that the biomass is
2 cultivated and harvested in a sustainable manner;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 "Energy consumer" means a business or residential consumer of
2 electric generation service or gas supply service located within the
3 territorial jurisdiction of a government aggregator;

4 "Energy efficiency portfolio standard" means a requirement to
5 procure a specified amount of energy efficiency or demand side
6 management resources as a means of managing and reducing energy
7 usage and demand by customers;

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

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

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

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

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

42 "Gas supply service" means the provision to customers of the
43 retail commodity of gas, but does not include any regulated
44 distribution service;

45 "Government aggregator" means any government entity subject
46 to the requirements of the "Local Public Contracts Law," P.L.1971,
47 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"

1 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
2 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
3 contract with a licensed electric power supplier or a licensed gas
4 supplier for: (1) the provision of electric generation service, electric
5 related service, gas supply service, or gas related service for its own
6 use or the use of other government aggregators; or (2) if a
7 municipal or county government, the provision of electric
8 generation service or gas supply service on behalf of business or
9 residential customers within its territorial jurisdiction;

10 "Government energy aggregation program" means a program and
11 procedure pursuant to which a government aggregator enters into a
12 written contract for the provision of electric generation service or
13 gas supply service on behalf of business or residential customers
14 within its territorial jurisdiction;

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

18 "Greenhouse gas emissions portfolio standard" means a
19 requirement that addresses or limits the amount of carbon dioxide
20 emissions indirectly resulting from the use of electricity as applied
21 to any electric power suppliers and basic generation service
22 providers of electricity;

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

28 "Local renewable energy collaborative" or "LREC" means a
29 limited liability corporation or other legal entity ¹established after
30 the effective date of P.L. , c. (C.) (pending before the
31 Legislature as this bill) ¹which consists of a group of ¹residential
32 customers who ¹reside in the same municipality and ¹share the
33 benefits of a Class I renewable energy generation system, and
34 which is ¹[registered with] licensed by ¹the board pursuant to
35 ¹subsection f. of section 38 of ¹P.L.1999, c.23 ¹[(C.48:3-49 et al.)]
36 (C.48:3-87) ¹;

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

44 "Marketer" means a duly licensed electric power supplier that
45 takes title to electric energy and capacity, transmission and other
46 services from electric power generators and other wholesale
47 suppliers and then assumes the contractual and legal obligation to

1 provide electric generation service, and may include transmission
2 and other services, to an end-use retail customer or customers, or a
3 duly licensed gas supplier that takes title to gas and then assumes
4 the contractual and legal obligation to provide gas supply service to
5 an end-use customer or customers;

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

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

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

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

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

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

44 "Public utility holding company" means: (1) any company that,
45 directly or indirectly, owns, controls, or holds with power to vote,
46 ten percent or more of the outstanding voting securities of an
47 electric public utility or a gas public utility or of a company which

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

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;

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

42 "Restructuring related costs" means reasonably incurred costs
43 directly related to the restructuring of the electric power industry,
44 including the closure, sale, functional separation and divestiture of
45 generation and other competitive utility assets by a public utility, or
46 the provision of competitive services as such costs are determined
47 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

1 of the electric public utility including, but not limited to, the land,
2 structures, meters, lines, switches and all other appurtenances
3 thereof and thereto, owned or controlled by the electric public
4 utility within this State; and

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

8 (cf: P.L.2009, c.289, s.1)]²

9

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

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

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

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

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

35 "Basic generation service provider" or "provider" means a
36 provider of basic generation service;

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

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 after the effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill), that provides power to one or more LRECs,
40 that sells power into the PJM grid, and that is licensed by the board
41 pursuant to subsection f. of section 38 of P.L.1999, c.23 (C.48:3-
42 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

1 location at which the consumption of such electric energy and
2 capacity is metered for retail billing purposes, including agreements
3 and arrangements related thereto;

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

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

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

27 "Electric rebate" means a reimbursement to the members of an
28 LREC of a portion of their payments for electric generation service,
29 the amount of which reimbursement is established pursuant to an
30 agreement negotiated between a CREG system operator and an
31 LREC for the benefit of the members of the LREC, provided that
32 such amount is based primarily on the quantity of energy produced
33 by the CREG system and the LREC members' usage of electricity;

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

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

45 "Energy agent" means a person that is duly registered pursuant to
46 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
47 sale of retail electricity or electric related services or retail gas

1 supply or gas related services between government aggregators or
2 private aggregators and electric power suppliers or gas suppliers,
3 but does not take title to the electric or gas sold;

4 "Energy consumer" means a business or residential consumer of
5 electric generation service or gas supply service located within the
6 territorial jurisdiction of a government aggregator;

7 "Energy efficiency portfolio standard" means a requirement to
8 procure a specified amount of energy efficiency or demand side
9 management resources as a means of managing and reducing energy
10 usage and demand by customers;

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

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

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

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

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

45 "Gas supply service" means the provision to customers of the
46 retail commodity of gas, but does not include any regulated
47 distribution service;

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

13 "Government energy aggregation program" means a program and
14 procedure pursuant to which a government aggregator enters into a
15 written contract for the provision of electric generation service or
16 gas supply service on behalf of business or residential customers
17 within its territorial jurisdiction;

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

21 "Greenhouse gas emissions portfolio standard" means a
22 requirement that addresses or limits the amount of carbon dioxide
23 emissions indirectly resulting from the use of electricity as applied
24 to any electric power suppliers and basic generation service
25 providers of electricity;

26 "Leakage" means an increase in greenhouse gas emissions
27 related to generation sources located outside of the State that are not
28 subject to a state, interstate or regional greenhouse gas emissions
29 cap or standard that applies to generation sources located within the
30 State;

31 "Local renewable energy collaborative" or "LREC" means a
32 limited liability corporation or other legal entity established after
33 the effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill) which consists of a group of residential
35 customers who reside in the same municipality and share the
36 benefits of a Class I renewable energy generation system and which
37 is licensed by the board pursuant to subsection f. of section 38 of
38 P.L.1999, c.23 (C.48:3-87);

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

46 "Marketer" means a duly licensed electric power supplier that
47 takes title to electric energy and capacity, transmission and other

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

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

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

12 "Offshore wind energy" means electric energy produced by a
13 qualified offshore wind project;

14 "Offshore wind renewable energy certificate" or "OREC" means
15 a certificate, issued by the board or its designee, representing the
16 environmental attributes of one megawatt hour of electric
17 generation from a qualified offshore wind project;

18 "Off-site end use thermal energy services customer" means an
19 end use customer that purchases thermal energy services from an
20 on-site generation facility, combined heat and power facility, or co-
21 generation facility, and that is located on property that is separated
22 from the property on which the on-site generation facility,
23 combined heat and power facility, or co-generation facility is
24 located by more than one easement, public thoroughfare, or
25 transportation or utility-owned right-of-way;

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

42 "Person" means an individual, partnership, corporation,
43 association, trust, limited liability company, governmental entity or
44 other legal entity;

45 "Private aggregator" means a non-government aggregator that is
46 a duly-organized business or non-profit organization authorized to
47 do business in this State that enters into a contract with a duly

1 licensed electric power supplier for the purchase of electric energy
2 and capacity, or with a duly licensed gas supplier for the purchase
3 of gas supply service, on behalf of multiple end-use customers by
4 combining the loads of those customers;

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

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

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

35 "Related competitive business segment of an electric public
36 utility or gas public utility" means any business venture of an
37 electric public utility or gas public utility including, but not limited
38 to, functionally separate business units, joint ventures, and
39 partnerships, that offers to provide or provides competitive services;

40 "Related competitive business segment of a public utility holding
41 company" means any business venture of a public utility holding
42 company, including, but not limited to, functionally separate
43 business units, joint ventures, and partnerships and subsidiaries, that
44 offers to provide or provides competitive services, but does not
45 include any related competitive business segments of an electric
46 public utility or gas public utility;

1 "Renewable energy certificate" or "REC" means a certificate
2 representing the environmental benefits or attributes of one
3 megawatt-hour of generation from a generating facility that
4 produces Class I or Class II renewable energy, but shall not include
5 a solar renewable energy certificate or an offshore wind renewable
6 energy certificate;

7 "Resource recovery facility" means a solid waste facility
8 constructed and operated for the incineration of solid waste for
9 energy production and the recovery of metals and other materials
10 for reuse;

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

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

34 "Retail margin" means an amount, reflecting differences in
35 prices that electric power suppliers and electric public utilities may
36 charge in providing electric generation service and basic generation
37 service, respectively, to retail customers, excluding residential
38 customers, which the board may authorize to be charged to
39 categories of basic generation service customers of electric public
40 utilities in this State, other than residential customers, under the
41 board's continuing regulation of basic generation service pursuant to
42 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
43 purpose of promoting a competitive retail market for the supply of
44 electricity;

45 "Shopping credit" means an amount deducted from the bill of an
46 electric public utility customer to reflect the fact that such customer

1 has switched to an electric power supplier and no longer takes basic
2 generation service from the electric public utility;

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

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

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

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

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

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

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

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

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

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

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

23 "Universal service" means any service approved by the board
24 with the purpose of assisting low-income residential customers in
25 obtaining or retaining electric generation or delivery service.²
26 (cf: P.L.2010, c.57, s.1)
27

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

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

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

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

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

44 b. Notwithstanding any provisions of the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
46 contrary, the board shall initiate a proceeding and shall adopt, in
47 consultation with the Department of Environmental Protection, after

1 notice and opportunity for public comment and public hearing,
2 interim standards to implement this disclosure requirement,
3 including, but not limited to:

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

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

10 (3) A uniform emissions disclosure format that is graphic in
11 nature and easily understandable by consumers. The board shall
12 periodically review the disclosure requirements to determine if
13 revisions to the environmental disclosure system as implemented
14 are necessary.

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

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

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

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

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

38 (a) Allow a transition period, either before or after the effective
39 date of the regulation to mitigate leakage, for a basic generation
40 service provider or electric power supplier to either meet the
41 emissions portfolio standard or other regulatory mechanism to
42 mitigate leakage, or to transfer any customer to a basic generation
43 service provider or electric power supplier that meets the emissions
44 portfolio standard or other regulatory mechanism to mitigate
45 leakage. If the transition period allowed pursuant to this
46 subparagraph occurs after the implementation of an emissions
47 portfolio standard or other regulatory mechanism to mitigate

1 leakage, the transition period shall be no longer than three years;
2 and

3 (b) Exempt the provision of basic generation service pursuant to
4 a basic generation service purchase and sale agreement effective
5 prior to the date of the regulation.

6 Unless the Attorney General or the Attorney General's designee
7 determines that a greenhouse gas emissions portfolio standard
8 would unconstitutionally burden interstate commerce or would be
9 preempted by federal law, the adoption by the board of an electric
10 energy efficiency portfolio standard pursuant to subsection [g.] h.
11 of this section, a gas energy efficiency portfolio standard pursuant
12 to subsection [h.] i. of this section, or any other enhanced energy
13 efficiency policies to mitigate leakage shall not be considered
14 sufficient to fulfill the requirement of this subsection for the
15 adoption of a greenhouse gas emissions portfolio standard or any
16 other regulatory mechanism to mitigate leakage.

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

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

26 (2) beginning on January 1, 2001, that one-half of one percent
27 of the kilowatt hours sold in this State by each electric power
28 supplier and each basic generation service provider be from Class I
29 renewable energy sources. The board shall increase the required
30 percentage for Class I renewable energy sources so that by January
31 1, 2006, one percent of the kilowatt hours sold in this State by each
32 electric power supplier and each basic generation service provider
33 shall be from Class I renewable energy sources and shall
34 additionally increase the required percentage for Class I renewable
35 energy sources by one-half of one percent each year until January 1,
36 2012, when four percent of the kilowatt hours sold in this State by
37 each electric power supplier and each basic generation service
38 provider shall be from Class I renewable energy sources[.

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

44 (3) that the board establish a multi-year schedule, applicable to
45 each electric power supplier or basic generation service provider in
46 this State, beginning with the one-year period commencing on June
47 1, 2010, and continuing for each subsequent one-year period up to

1 and including, the one-year period commencing on June 1, 2025,
2 that requires suppliers or providers to purchase at least the
3 following number of kilowatt-hours from solar electric power
4 generators in this State:

5	EY 2011	306 Gigawatthours (Gwhrs)
6	EY 2012	442 Gwhrs
7	EY 2013	596 Gwhrs
8	EY 2014	772 Gwhrs
9	EY 2015	965 Gwhrs
10	EY 2016	1,150 Gwhrs
11	EY 2017	1,357 Gwhrs
12	EY 2018	1,591 Gwhrs
13	EY 2019	1,858 Gwhrs
14	EY 2020	2,164 Gwhrs
15	EY 2021	2,518 Gwhrs
16	EY 2022	2,928 Gwhrs
17	EY 2023	3,433 Gwhrs
18	EY 2024	3,989 Gwhrs
19	EY 2025	4,610 Gwhrs
20	EY 2026	5,316 Gwhrs

21 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs
22 per energy year to reflect an increasing number of kilowatt-hours to
23 be purchased by suppliers or providers from solar electric power
24 generators in this State, and to establish a framework within which
25 suppliers and providers shall purchase at least 2,518 Gwhrs in the
26 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from
27 solar electric power generators in this State, provided, however, that
28 the number of solar kilowatt-hours required to be purchased by each
29 supplier or provider, when expressed as a percentage of the total
30 number of solar kilowatt-hours purchased in this State, shall be
31 equivalent to each supplier's or provider's proportionate share of the
32 total number of kilowatt-hours sold in this State by all suppliers and
33 providers.

34 The solar renewable portfolio standards requirements in this
35 paragraph [(3) of this subsection] shall automatically increase by
36 20% for the remainder of the schedule in the event that the
37 following two conditions are met: (a) the number of SRECs
38 generated meets or exceeds the requirement for three consecutive
39 reporting years, starting with energy year 2013; and (b) the average
40 SREC price for all SRECs purchased by entities with renewable
41 energy portfolio standards obligations has decreased in the same
42 three consecutive reporting years. The board shall exempt
43 providers' existing supply contracts that are: (a) effective prior to
44 the date of P.L.2009, c.289; or (b) effective prior to any future
45 increase in the solar renewable portfolio standard beyond the multi-
46 year schedule established in this paragraph [(3) of this subsection].
47 This exemption shall apply to the number of SRECs that exceeds

1 the number mandated by the solar renewable portfolio standards
2 requirements that were in effect on the date that the providers
3 executed their existing supply contracts. This limited exemption for
4 providers' existing supply contracts shall not be construed to lower
5 the Statewide solar purchase requirements set forth in this
6 paragraph [(3) of this subsection]. Such incremental new
7 requirements shall be distributed over the electric power suppliers
8 and providers not subject to the existing supply contract exemption
9 until such time as existing supply contracts expire and all suppliers
10 are subject to the new requirement.

11 An electric power supplier or basic generation service provider
12 may satisfy the requirements of this subsection by participating in a
13 renewable energy trading program approved by the board in
14 consultation with the Department of Environmental Protection, or
15 compliance with the requirements of this subsection may be
16 demonstrated to the board by suppliers or providers through the
17 purchase of SRECs.

18 The renewable energy portfolio standards adopted by the board
19 pursuant to paragraphs (1) and (2) of this subsection shall be
20 effective as regulations immediately upon filing with the Office of
21 Administrative Law and shall be effective for a period not to exceed
22 18 months, and may, thereafter, be amended, adopted or readopted
23 by the board in accordance with the provisions of the
24 "Administrative Procedure Act."

25 The renewable energy portfolio standards adopted by the board
26 pursuant to paragraph (3) of this subsection shall be effective as
27 regulations immediately upon filing with the Office of
28 Administrative Law and shall be effective for a period not to exceed
29 30 months after such filing, and shall, thereafter, be amended,
30 adopted or readopted by the board in accordance with the
31 "Administrative Procedure Act."

32 e. 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:

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

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

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

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

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

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

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

7 f. Notwithstanding any provisions of the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
9 contrary, the board shall initiate a proceeding and, after notice,
10 provision of the opportunity for comment, and public hearing, may
11 adopt standards which require electric public utilities to offer non-
12 discriminatory rates to an LREC. Customers who are members of
13 an LREC may act as host for the installation of a CREG system.
14 The electric public utility shall be responsible for reading the utility
15 meter of each of the LREC's members and shall render a bill to each
16 member at the standard prevailing tariff rates for electric generation
17 service and electric delivery service that are normally applicable to
18 each such member and otherwise in accordance with the applicable
19 regulations, including any applicable net metering regulations to the
20 extent a customer meets the requirements of the net metering
21 regulations. Subject to compliance by each '[registered] licensed'
22 CREG system with applicable requirements of the PJM electric
23 power pool for generators, including without limitation, PJM
24 metering requirements, the CREG system operator shall take title to
25 the energy generated by each such CREG system and shall sell such
26 energy into the PJM electric power pool's real-time energy market,
27 and arrange for the electric public utility to receive the gross
28 payments for energy and capacity received from PJM associated
29 with the energy generated by each such CREG system, without
30 deduction for any fees or penalties paid or payable to PJM by the
31 LREC. For each kilowatt-hour of energy sold by the CREG system
32 operator for which the electric public utility receives such assigned
33 PJM payments, the electric public utility shall pay the LREC an
34 amount equal to '[110% of]'
35 BGS rate for fixed price customers, or in the case of an LREC
36 whose members are all residential customers who reside in
37 structures older than 10 years 'with heating systems' that are served
38 '[only] predominantly' by electric energy, 120% of the then
39 prevailing per kilowatt-hour BGS rate for fixed price customers, or
40 if there is no such rate, a reasonably comparable amount determined
41 by the board; provided that, if the aggregate generation of all CREG
42 systems serving an LREC exceeds the aggregate amount of
43 electricity supplied by the electric power supplier or BGS provider
44 to all LREC members over an annualized period, the price for such
45 excess generation shall be the average over such annualized period
46 of the PJM electric power pool's real-time locational marginal
47 pricing rate, adjusted for losses, for the respective zone in the PJM

1 electric power pool, which may require an adjustment to the
2 amounts previously paid by the electric public utility to the LREC.
3 Such payments, or the financial equivalent of such payments, shall
4 be made by the electric public utility to the LREC no more
5 frequently than monthly and may be made through tariff or contract
6 according to the preference of the electric public utility with which
7 the LREC is registered. The LREC shall be responsible for
8 allocating the payments received from the electric public utility
9 among the LREC's members as an electric rebate in accordance
10 with an agreement between the CREG system operator and the
11 LREC. ¹[Any difference between the amounts paid by the electric
12 public utility to the CREG system operator and the PJM payments
13 received by the electric public utility associated with such CREG
14 system energy, positive or negative, along with the electric public
15 utility's incremental costs of implementing and administering the
16 LREC payments, shall flow through a reconciliation clause of the
17 electric public utility's tariff.]¹

18 LRECs ¹[may] shall¹ include ¹[all classes of] only residential
19 class¹ customers as members, ¹[but] and¹ all LREC members shall
20 ¹[be] reside¹ within the ¹same municipality and within the¹ same
21 electric public utility territory. The total capacity of all CREG
22 systems associated with a particular LREC may not exceed the
23 projected annual consumption of the LREC members. CREG
24 systems within an LREC that are connected to the distribution
25 system may earn eligible energy credits, SRECs, or other applicable
26 incentives. An LREC shall not be considered an electric public
27 utility. All LRECs and CREG systems shall be ¹[registered with]
28 licensed by¹ the board. The board's ¹[registration] licensing¹
29 requirements shall ensure sound and uniform business practices.
30 ¹The board shall adopt and implement an LREC and CREG
31 licensing procedure within 90 days after the effective date of
32 P.L. , c. (pending before the Legislature as this bill). For the
33 purposes of the licensing procedure established pursuant to this
34 subsection, the board shall issue an order in writing either
35 approving or disapproving an LREC or CREG application for
36 licensing within 30 days of the date of receipt of such application.
37 If the board fails to either approve or disapprove the application
38 within the 30-day period, the application shall be deemed to be
39 approved.¹

40 [f.] g. The board may assess, by written order and after notice
41 and opportunity for comment, a separate fee to cover the cost of
42 implementing and overseeing an emission disclosure system or
43 emission portfolio standard, which fee shall be assessed based on an
44 electric power supplier's or basic generation service provider's share
45 of the retail electricity supply market. The board shall not impose a
46 fee for the cost of implementing and overseeing a greenhouse gas

1 emissions portfolio standard adopted pursuant to paragraph (2) of
2 subsection c. of this section, the electric energy efficiency portfolio
3 standard adopted pursuant to subsection g. of this section, or the gas
4 energy efficiency portfolio standard adopted pursuant to subsection
5 h. of this section.

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

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

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

35 **[j] k.** The board shall determine an appropriate level of solar
36 alternative compliance payment, and establish a 15-year solar
37 alternative compliance payment schedule, that permits each supplier
38 or provider to submit an SACP to comply with the solar electric
39 generation requirements of paragraph (3) of subsection d. of this
40 section. The board may initiate subsequent proceedings and adopt,
41 after appropriate notice and opportunity for public comment and
42 public hearing, an increase in solar alternative compliance
43 payments, provided that the board shall not reduce previously
44 established levels of solar alternative compliance payments, nor
45 shall the board provide relief from the obligation of payment of the
46 SACP by the electric power suppliers or basic generation service

1 providers in any form. Any SACP payments collected shall be
2 refunded directly to the ratepayers by the electric public utilities.

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

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

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

14 (2) maintain adequate regulatory authority over non-competitive
15 public utility services;

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

18 (4) promote energy efficiency and Class I renewable energy
19 market development, taking into consideration environmental
20 benefits and market barriers;

21 (5) make energy services more affordable for low and moderate
22 income customers;

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

26 (7) achieve the goals put forth under the renewable energy
27 portfolio standards;

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

29 (9) allow all market segments to participate.

30 **[m.] n.** The board shall ensure the availability of financial
31 incentives under its jurisdiction, including, but not limited to, long-
32 term contracts, loans, SRECs, or other financial support, to ensure
33 market diversity, competition, and appropriate coverage across all
34 ratepayer segments, including, but not limited to, residential,
35 commercial, industrial, non-profit, farms, schools, and public entity
36 customers.

37 **[n.] o.** For projects which are owned, or directly invested in, by
38 a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
39 98.1), the board shall determine the number of SRECs with which
40 such projects shall be credited; and in determining such number the
41 board shall ensure that the market for SRECs does not detrimentally
42 affect the development of non-utility solar projects and shall
43 consider how its determination may impact the ratepayers.

44 **[o.] p.** The board, in consultation with the Department of
45 Environmental Protection, electric public utilities, the Division of
46 Rate Counsel in the Department of the Public Advocate, affected
47 members of the solar energy industry, and relevant stakeholders,

1 shall periodically consider increasing the renewable energy
2 portfolio standards beyond the minimum amounts set forth in
3 subsection d. of this section, taking into account the cost impacts
4 and public benefits of such increases including, but not limited to:

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

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

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

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

14 **[p.] q.** Class I RECs shall be eligible for use in renewable
15 energy portfolio standards compliance in the energy year in which
16 they are generated, and for the following two energy years. SRECs
17 shall be eligible for use in renewable energy portfolio standards
18 compliance in the energy year in which they are generated, and for
19 the following two energy years.

20 r. The board shall convene a proceeding and invite
21 participation from the public, representatives of electric public
22 utilities, electric power suppliers, commercial and industrial
23 customers, and metering system, equipment manufacturers and
24 statutory parties, if any, concerning the advisability of adopting
25 advanced metering infrastructure, including system capability,
26 security, and interoperability standards for advanced metering
27 infrastructure, and safety and power quality interconnection
28 standards. The board shall consider: (1) the feasibility of deploying
29 advanced metering infrastructure; (2) potential system capability,
30 security, and interoperability standards for advanced metering
31 infrastructure; and (3) safety and power quality interconnection
32 standards. The potential standards shall address the following
33 advanced meter infrastructure capabilities: monitoring, diagnostic,
34 and control information and services that improve the efficiency
35 and reliability of the transmission and distribution system; the use
36 of electricity, including automated load control or demand response
37 programs; voltage fluctuation detection and prevention; remote
38 outage and restoration detection; reporting of customer usage and
39 demand; performance monitoring of electrical distribution network
40 equipment; and predictive maintenance and diagnostics. Any
41 standards shall take into consideration the goals of the New Jersey
42 Energy Master Plan, applicable industry standards, the standards of
43 other states, and the standards of the Institute of Electrical and
44 Electronics Engineers. The adoption of any standards shall be
45 pursuant to the provisions of the "Administrative Procedure Act,"
46 P.L.1968, c.410 (C.52:14B-1 et seq.)¹;
47 (cf: P.L.2009, c.289, s.2)]²

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) Exempt the provision of basic generation service pursuant to
24 a basic generation service purchase and sale agreement effective
25 prior to the date of the regulation.

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

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

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

46 (2) beginning on January 1, 2001, that one-half of one percent
47 of the kilowatt hours sold in this State by each electric power

1 supplier and each basic generation service provider be from Class I
2 renewable energy sources. The board shall increase the required
3 percentage for Class I renewable energy sources so that by January
4 1, 2006, one percent of the kilowatt hours sold in this State by each
5 electric power supplier and each basic generation service provider
6 shall be from Class I renewable energy sources and shall
7 additionally increase the required percentage for Class I renewable
8 energy sources by one-half of one percent each year until January 1,
9 2012, when four percent of the kilowatt hours sold in this State by
10 each electric power supplier and each basic generation service
11 provider shall be from Class I renewable energy sources[.

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

16 (3) that the board establish a multi-year schedule, applicable to
17 each electric power supplier or basic generation service provider in
18 this State, beginning with the one-year period commencing on June
19 1, 2010, and continuing for each subsequent one-year period up to
20 and including, the one-year period commencing on June 1, 2025,
21 that requires suppliers or providers to purchase at least the
22 following number of kilowatt-hours from solar electric power
23 generators in this State:

24	EY 2011	306 Gigawatthours (Gwhrs)
25	EY 2012	442 Gwhrs
26	EY 2013	596 Gwhrs
27	EY 2014	772 Gwhrs
28	EY 2015	965 Gwhrs
29	EY 2016	1,150 Gwhrs
30	EY 2017	1,357 Gwhrs
31	EY 2018	1,591 Gwhrs
32	EY 2019	1,858 Gwhrs
33	EY 2020	2,164 Gwhrs
34	EY 2021	2,518 Gwhrs
35	EY 2022	2,928 Gwhrs
36	EY 2023	3,433 Gwhrs
37	EY 2024	3,989 Gwhrs
38	EY 2025	4,610 Gwhrs
39	EY 2026	5,316 Gwhrs
40	EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs	
41	per energy year to reflect an increasing number of kilowatt-hours to	
42	be purchased by suppliers or providers from solar electric power	
43	generators in this State, and to establish a framework within which	
44	suppliers and providers shall purchase at least 2,518 Gwhrs in the	
45	energy year 2021 and 5,316 Gwhrs in the energy year 2026 from	
46	solar electric power generators in this State, provided, however, that	
47	the number of solar kilowatt-hours required to be purchased by each	

1 supplier or provider, when expressed as a percentage of the total
2 number of solar kilowatt-hours purchased in this State, shall be
3 equivalent to each supplier's or provider's proportionate share of the
4 total number of kilowatt-hours sold in this State by all suppliers and
5 providers.

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

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

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

44 The renewable energy portfolio standards adopted by the board
45 pursuant to paragraph (3) of this subsection shall be effective as
46 regulations immediately upon filing with the Office of
47 Administrative Law and shall be effective for a period not to exceed

1 30 months after such filing, and shall, thereafter, be amended,
2 adopted or readopted by the board in accordance with the
3 "Administrative Procedure Act"; and

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

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

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

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

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

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

46 (1) net metering standards for electric power suppliers and basic
47 generation service providers. The standards shall require electric

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

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

38 Such standards or rules shall take into consideration the goals of
39 the New Jersey Energy Master Plan, applicable industry standards,
40 and the standards of other states and the Institute of Electrical and
41 Electronic Engineers. The board shall allow electric public utilities
42 to recover the costs of any new net meters, upgraded net meters,
43 system reinforcements or upgrades, and interconnection costs
44 through either their regulated rates or from the net metering
45 customer-generator; and

46 (3) credit or other incentive rules for generators using Class I
47 renewable energy generation systems that connect to New Jersey's

1 electric public utilities' distribution system but who do not net
2 meter.

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

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

16 f. Notwithstanding any provisions of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
18 contrary, the board shall initiate a proceeding and, after notice,
19 provision of the opportunity for comment, and public hearing, may
20 adopt standards which require electric public utilities to offer non-
21 discriminatory rates to an LREC. Customers who are members of
22 an LREC may act as host for the installation of a CREG system.
23 The electric public utility shall be responsible for reading the utility
24 meter of each of the LREC's members and shall render a bill to each
25 member at the standard prevailing tariff rates for electric generation
26 service and electric delivery service that are normally applicable to
27 each such member and otherwise in accordance with the applicable
28 regulations, including any applicable net metering regulations to the
29 extent a customer meets the requirements of the net metering
30 regulations. Subject to compliance by each licensed CREG system
31 with applicable requirements of the PJM electric power pool for
32 generators, including without limitation, PJM metering
33 requirements, the CREG system operator shall take title to the
34 energy generated by each such CREG system and shall sell such
35 energy into the PJM electric power pool's real-time energy market,
36 and arrange for the electric public utility to receive the gross
37 payments for energy and capacity received from PJM associated
38 with the energy generated by each such CREG system, without
39 deduction for any fees or penalties paid or payable to PJM by the
40 LREC. For each kilowatt-hour of energy sold by the CREG system
41 operator for which the electric public utility receives such assigned
42 PJM payments, the electric public utility shall pay the CREG an
43 amount equal to the then prevailing per kilowatt-hour BGS rate for
44 fixed price customers, or in the case of an LREC whose members
45 are all residential customers who reside in structures older than 10
46 years with heating systems that are served predominantly by electric
47 energy, 120% of the prevailing per kilowatt-hour BGS rate for fixed

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

22 If a CREG system operator enters into an agreement with an
23 LREC to establish an electric rebate, the agreement shall provide
24 for the electric public utility with which the CREG system operator
25 is registered to pay the amount of such electric rebate to the
26 members of the LREC in accordance with the electric rebate
27 agreement unless the public utility elects to allow the LREC to
28 implement the electric rebate agreement on behalf of the public
29 utility. If the public utility allows the LREC to implement such an
30 agreement on behalf of the utility, the utility shall pay the electric
31 rebate amount to the CREG system operator, which shall remit that
32 amount to the LREC for distribution to the members of the LREC.
33 The LREC shall be responsible for allocating the payments received
34 from the CREG among the LREC's members as an electric rebate in
35 accordance with an agreement between the CREG system operator
36 and the LREC.

37 LRECs shall include only residential class customers as
38 members, and all LREC members shall reside within the same
39 municipality and within the same electric public utility territory.
40 The total capacity of all CREG systems associated with a particular
41 LREC may not exceed the projected annual consumption of the
42 LREC members. CREG systems within an LREC that are
43 connected to the distribution system may earn eligible energy
44 credits, SRECs, or other applicable incentives. An LREC shall not
45 be considered an electric public utility. All LRECs and CREG
46 systems shall be licensed by the board. The board's licensing
47 requirements shall ensure sound and uniform business practices.

1 The board shall adopt and implement an LREC and CREG licensing
2 procedure within 90 days after the effective date of P.L. ,
3 c. (C.) (pending before the Legislature as this bill). For the
4 purposes of the licensing procedure established pursuant to this
5 subsection, the board shall issue an order in writing either
6 approving or disapproving an LREC or CREG application for
7 licensing within 30 days of the date of receipt of such application.
8 If the board fails to either approve or disapprove the application
9 within the 30-day period, the application shall be deemed to be
10 approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (9) allow all market segments to participate.

46 **[m.]** n. The board shall ensure the availability of financial
47 incentives under its jurisdiction, including, but not limited to, long-

1 term contracts, loans, SRECs, or other financial support, to ensure
2 market diversity, competition, and appropriate coverage across all
3 ratepayer segments, including, but not limited to, residential,
4 commercial, industrial, non-profit, farms, schools, and public entity
5 customers.

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

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

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

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

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

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

30 **[p.] q.** Class I RECs shall be eligible for use in renewable
31 energy portfolio standards compliance in the energy year in which
32 they are generated, and for the following two energy years. SRECs
33 and ORECs shall be eligible for use in renewable energy portfolio
34 standards compliance in the energy year in which they are
35 generated, and for the following two energy years.

36 r. The board shall convene a proceeding and invite
37 participation from the public, representatives of electric public
38 utilities, electric power suppliers, commercial and industrial
39 customers, and metering system, equipment manufacturers and
40 statutory parties, if any, concerning the advisability of adopting
41 advanced metering infrastructure, including system capability,
42 security, and interoperability standards for advanced metering
43 infrastructure, and safety and power quality interconnection
44 standards. The board shall consider: (1) the feasibility of deploying
45 advanced metering infrastructure; (2) potential system capability,
46 security, and interoperability standards for advanced metering
47 infrastructure; and (3) safety and power quality interconnection

1 standards. The potential standards shall address the following
2 advanced meter infrastructure capabilities: monitoring, diagnostic,
3 and control information and services that improve the efficiency
4 and reliability of the transmission and distribution system; the use
5 of electricity, including automated load control or demand response
6 programs; voltage fluctuation detection and prevention; remote
7 outage and restoration detection; reporting of customer usage and
8 demand; performance monitoring of electrical distribution network
9 equipment; and predictive maintenance and diagnostics. Any
10 standards shall take into consideration the goals of the New Jersey
11 Energy Master Plan, applicable industry standards, the standards of
12 other states, and the standards of the Institute of Electrical and
13 Electronics Engineers. The adoption of any standards shall be
14 pursuant to the provisions of the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.).²
16 (cf: P.L.2010, c.57, s.2)

17
18 3. This act shall take effect ¹**[**on the 90th day after the date of
19 enactment, but the Board of Public Utilities may take such
20 anticipatory administrative action in advance thereof as shall be
21 necessary for the implementation of this act**]** immediately¹.